CODE OF ORDINANCES

CHAPTER 1
GENERAL PROVISIONS

Sec. 1-1 How Code designated and cited

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

(Code 1974, § 1-1)

Charter reference–Authority to codify ordinances, art. II, § 14.
State law reference–Authority to adopt a civil and criminal code of ordinances, V.T.C.A., Local Government Code § 53.001.

Sec. 1-2 Definitions and rules of 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:

Generally. Words shall be construed in their common and usual significance unless the contrary is clearly indicated.

Charter. The word "Charter" shall mean the Charter of the City of Euless printed in part I of this volume.

City. The word "city" shall mean the City of Euless in the County of Tarrant and State of Texas.

City boards, committees, commissions, etc. Whenever reference is made to a board, committee, commission, officer, employee or department, etc., it shall mean the same as if it were followed by the words "of the City of Euless, Texas."

City manager, city secretary, chief of police or other city officers. The words "city manager," "city secretary," "chief of police" and other city officers or departments shall be construed to mean the city manager, city secretary, chief of police or such other municipal officers or departments, respectively, of the City of Euless, Texas. Reference to an officer or employee by title shall include his duly authorized assistants or representatives.

Code. The word "Code" shall mean the Code of Ordinances of the City of Euless.

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.

State law reference–Computation of time, V.T.C.A., Government Code § 311.014.

Council. Whenever the words “council” or “city council” are used, they shall mean the city council of the City of Euless, Texas.

County. The term “county” shall mean the County of Tarrant, Texas.

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

Month. The word “month” shall mean a calendar month.

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

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.”

Official time standard. Whenever certain hours are named herein, they shall mean standard time or daylight saving time as may be in current use in the city.

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.

Person. The word “person” shall extend and be applied to associations, corporations, firms, partnerships, fiduciaries, representatives and bodies politic and corporate as well as to individuals.

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

Signature or subscription. The word “signature” or “subscription” shall include a mark when a person cannot write.

State. The word “state” shall be construed to mean the State of Texas.

Street. This term shall have its commonly accepted meaning, and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way including the entire right-of-way.

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

V.T.C.A. The abbreviation “V.T.C.A.” shall mean and refer to the latest edition or supplement of Vernon’s Texas Codes Annotated.

Vernon’s Ann. Civ. St. The abbreviation “Vernon’s Ann. Civ. St.” shall mean the latest edition or supplement to Vernon’s Annotated Civil Statutes.

Written or in writing. The term “written” or “in writing” shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word “year” shall mean a calendar year.

(Code 1974, § 1-3)

Sec. 1-3 Catchlines of sections

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

(Code 1974, § 1-2)

Sec. 1-4 History notes

The history notes appearing in parentheses after sections of this Code are not intended to have any legal effect, but are merely intended to indicate the source of matter contained in the section.

Sec. 1-5 References to chapters or sections

All references to chapters or sections are to the chapters and sections of this Code unless otherwise specified.

Sec. 1-6 References and editor’s notes

The references and editor’s notes appearing throughout the Code are not intended to have any legal effect, but are merely intended to assist the user of the Code.

Sec. 1-7 Provisions considered as continuation of existing ordinances

The provisions appearing in this Code so far as they are the same as those of the Code of the City of Euless, Texas, 1974, and of ordinances existing at the time of adoption of this Code shall be considered as a continuation thereof and not new enactments.

Sec. 1-8 Code does not affect prior offenses, rights, etc

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

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

Sec. 1-9 Effect of amendments to Code

(a) Any and all additions and amendments to this Code, when passed in such form as to indicate the intention of the city council to make the same a part of this Code, shall be deemed to be incorporated in this Code, so that reference to the Code shall be understood and intended to include such additions and amendments.

(b) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, division, section or subsection or any portion thereof, such repealed portions may be excluded from the Code by omission from reprinted pages.

(c) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in substantially the following language: “That section _____ of the Code of Ordinances of the City of Euless, Texas, is hereby amended to read as follows: ....” The new provisions shall then be set out in full as desired.

(d) If a new section not heretofore existing in the Code is to be added, the following language may be used: “That the Code of Ordinances, City of Euless, Texas, is hereby amended by adding a section to be numbered _____, which section reads as follows: ....” The new section may then be set out in full as desired.

(e) All sections, divisions, articles, chapters, or provisions desired to be repealed must be specifically repealed by section, division, article or chapter number, as the case may be.

Sec. 1-10 Supplementation of Code

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

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

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

(1) Organize the ordinance material into appropriate subdivisions;

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

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

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

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

(Code 1974, § 1-4)

Sec. 1-11 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 judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the city council without the incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

(Code 1974, § 1-5)

Sec. 1-12 General penalty

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

(1) Not to exceed $500.00;

(2) Not to exceed $2,000.00 if the provision violated governs fire safety, zoning or public health and sanitation, including vegetation and litter violations and the dumping of refuse; or

(3) Fixed by state law if the violation is one for which the state has fixed a fine.

(b) Unless otherwise specifically set forth in this Code or in state law, as adopted, allegation and evidence of a culpable mental state is not required for proof of the violation of any provision of this Code.

(c) Notwithstanding subsection (b) herein, a culpable mental state of intentional, knowing, or reckless must be alleged in the charge of an offense if the offense is punishable by a fine exceeding $500.00.

(d) A person violating a provision of this Code or of any ordinance is guilty of a separate offense for each day, or part of a day, during which the violation is committed, continued or permitted, unless otherwise provided.

(e) The owners of any building or premises, or part thereof, where anything in violation of this article shall be placed or shall exist, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and upon conviction shall be punished as provided in this section.

(f) The penalties provided in this section shall be cumulative and not exclusive of any other rights and remedies the city may have.

(Code 1974, § 1-6; Ord. No. 1077, 5-12-92; Ord. No. 2021 , § 1, 2-11-14)

State law reference–Authority of city to prescribe penalties for violation of Code of Ordinances, V.T.C.A., Local Government Code § 54.001; punishment for violation of statute, V.T.C.A., Local Government Code § 53.001; municipal court criminal jurisdiction, V.T.C.A., Government Code § 29.003; authority to imprison in default of fine payment, Vernon's Ann. C.C.P. art. 43.09.

CHAPTER 2
ADMINISTRATION*(1)

ARTICLE I. IN GENERAL

Secs. 2-1–2-30 Reserved

ARTICLE II. BOARDS, COMMITTEES AND COMMISSIONS*(2)

Division 1. Generally

Secs. 2-31–2-45 Reserved

Division 2. Planning and Zoning Commission*(3)

Sec. 2-46 Organization

The planning and zoning commission shall elect a chairman, a vice-chairman and a secretary

from its membership, and shall have power to employ such qualified persons as may be necessary for the proper conduct and undertakings of the commission and to pay for their services and such other necessary expenses; provided, the cost of such services and expenses shall not exceed the amount appropriated by the city council for the use of the commission. It shall also have the power to make rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the city council, and such rules, regulations and bylaws shall be subject to approval by the council. Such bylaws shall include, among other items, provisions for:

(1) Regular and special meetings, open to the public.

(2) Records of its proceedings, to be open for inspection by the public.

(3) Reporting to the governing body and the public, from time to time and annually.

(4) The holding of public hearings on its recommendations.

(Code 1974, § 2-2)

Charter reference–Powers and duties, art. X, § 2.

Secs. 2-47–2-65 Reserved

Division 3. Airport Zoning Board*(4)

Sec. 2-66 Created

There is hereby created a joint airport zoning board to be known as the Dallas-Fort Worth Regional Joint Airport Zoning Board, which shall have the powers and exercise the duties set forth in V.T.C.A., Local Government Code §§ 241.001 through 241.903, inclusive, as amended, or as may be amended in the future, commonly known as the Airport Zoning Act; provided, however, all regulations adopted by the joint airport zoning board shall be administered by the governing body of the political subdivision adopting the regulations unless such governing body shall specifically provide otherwise.

(Code 1974, § 2-8)

State law reference-Joint airport zoning board, V.T.C.A., Local Government Code § 241.014.

Sec. 2-67 Representation of political subdivisions

The Dallas-Fort Worth Regional Joint Airport Zoning Board shall be composed of two members to be appointed by each of the following political subdivisions within the airport hazard area of the Dallas-Fort Worth Regional Airport participating in its creation: Dallas, Denton and Tarrant Counties; Arlington, Bedford, Colleyville, Coppell, Dallas, Euless, Flower Mound, Fort Worth, Grand Prairie, Grapevine, Irving, Lewisville, Southlake and Westlake; and, in addition, a chairman elected by a majority of the members so appointed.

(Code 1974, § 2-9(a))

Sec. 2-68 Terms; removal of members; filling of vacancies

Members shall be appointed for a term of two years and may be removed by the authority which appointed them. Vacancies shall be filled by the authority who appointed such member for the unexpired term of any member whose term becomes vacant.

(Code 1974, § 2-9(b))

Secs. 2-69–2-85 Reserved

Division 4. Reserved*(5)

Secs. 2-86–2-115 Reserved

ARTICLE III. OFFICERS AND EMPLOYEES*(6)

Division 1. Generally

Secs. 2-116–2-135 Reserved

Division 2. Municipal Court*(7)

Sec. 2-136 Authorization of additional municipal courts and judges by council

(a) The city council shall have the right and authority, from time to time, by appropriate resolution, to establish additional municipal courts of record or separate divisions of a court of record which courts or divisions, when so established, shall be courts of record or divisions of a courts of a court of record of full stature and equal dignity with the present and existing Euless Municipal Court of Record.

(b) The city council shall, by appropriate resolution, have the authority, from time to time, to name a presiding judge or judges and/or associate judges to preside over and perform the judicial functions for each of the municipal courts of record or divisions thereof.

(c) Each of the presiding judges, judges and/or associate judges shall serve for a term of two years and may be removed as provided by the constitution and laws of the State of Texas as same now exist or may be hereafter amended or by appropriate provisions of the Euless City Charter. Should vacancies occur during the term of a presiding judge, judge or associate judge same shall be filled by resolution appointing a qualified person to fill such office for the remainder of the unexpired term.

(d) The presiding judges, municipal judges and associate judges of the municipal court shall be compensated in an amount and manner as such compensation may from time to time be prescribed by the city council.

(e) Each of the presiding judges, judges and associate judges shall have full authority and

concurrent jurisdiction to preside in any of the courts or divisions thereof of the Euless Municipal Courts of Record and at any time and from time to time in the absence of the other. Each of such presiding judges, judges and/or associate judges shall be of equal statute and dignity with concurrent jurisdiction, one with the other, each with full right, power and authority to perform each and every judicial function authorized to the Euless Municipal Courts of Record or divisions thereof under the ordinances of the city, and the statutes, constitution and laws of the State of Texas, provided, however, that a presiding judge shall have the authority and be responsible for the assignment of judges and/or associate judges in the performance and scheduling of functions and duties of the Euless Municipal Courts of Record and/or divisions thereof.

(Code 1974, § 2-10; Ord. No. 1384, § I, 9-28-98)

Sec. 2-137 Municipal court building security fee

(a) There is hereby imposed, as a cost of court, a security fee of $3.00 per conviction in the Euless Municipal Court of Record.

(b) For the purposes of this section, a person is considered convicted if:

(1) A fine is imposed on the person;

(2) The person receives community supervision, including deferred adjudication; or

(3) The court defers final disposition of the person's case.

(c) There is hereby created a fund to be known as the municipal court building security fund. All security fees collected under this section shall be deposited into said municipal court building security fund. This fund may be used only to finance the following items when used for the purpose of providing security services for buildings housing the Euless Municipal Court:

(1) The purchase or repair of X-ray machines and conveying systems;

(2) Handheld metal detectors;

(3) Walkthrough metal detectors;

(4) Identification cards and systems;

(5) Electronic locking and surveillance equipment;

(6) Bailiffs, deputies or contract security personnel during times when they are providing appropriate security services; or

(7) Locks, chains or other security hardware.

(d) The municipal court building security fund shall be administered under the direction of the city council.

(Ord. No. 1184, § I, 8-22-95)

Sec. 2-138 Municipal court technology fee

(a) There is hereby imposed, as a cost of court, a technology fee of $4.00 per conviction in the Euless Municipal Court of Record.

(b) For purposes of this section, a person is considered convicted if:

(1) A fine is imposed on the person;

(2) The person receives community supervision, including deferred adjudication; or

(3) The court defers final disposition of the person's case.

(c) This fund may be used only for the purposes specifically authorized by Vernon's Ann. C.C.P. art. 102.0172 as same now exists or may be hereafter amended.

(d) The municipal court technology fund shall be administered under the direction of the city council.

(Ord. No. 1379, § I, 8-24-98)

Sec. 2-139 Euless Municipal Court of Record Number 1

(a) There is hereby created within the City of Euless, Texas, a municipal court of record, which hereafter shall be designated and known as the "Euless Municipal Court of Record Number 1." The Euless Municipal Court of Record Number 1 shall be officially created and shall commence operations on October 1, 1993.

(b) The presently existing and operating municipal court in the city, which is not a court of record, shall cease operations on October 1, 1993, at the time that the Euless Municipal Court of Record Number 1 is created and commences operations. All records of the Euless Municipal Court shall, at that time, become records of the Euless Municipal Court of Record Number 1.

(c) The city council hereby adopts the provisions of House Bill 2841, enacted by the 73rd Legislature of the State of Texas, and codified as Subchapter X of Chapter 30 of the Texas Government Code, to govern operations and procedures in the Euless Municipal Court of Record Number 1.

(d) Pursuant to the provisions of Subchapter X of Chapter 30 of the Texas Government Code, as amended, the city council hereby provides that, in lieu of providing a court reporter at trials, the proceedings in the Euless Municipal Court of Record Number 1 shall be recorded by a good quality electronic recording device.

(Ord. No. 1120, §§ I-IV, 9-14-93; Ord. No. 1379, § I, 8-24-98)

Sec. 2-140 Juvenile case manager fee

(a) There is hereby imposed, as a cost of court, a juvenile case manager fee of $5.00 per conviction in the Euless Municipal Court of Record.

(b) For purposes of this section, a person is considered convicted if:

(1) A fine is imposed on the person;

(2) The person receives a deferred disposition, including deferred proceedings under Article 45.052 or 45.053 of the Texas Code of Criminal Procedure.

(c) The Judge of the Euless Municipal Court of Record is hereby authorized to waive the fee required by this section in cases of financial hardship, to be determined in the discretion of the judge.

(d) Fees collected under this section shall be deposited in the juvenile case manager fund which is also created hereby. This fund may be used only to finance the salary and benefits of one or more juvenile case managers as described under Article 45.056, Texas Code of Criminal Procedure.

(e) The juvenile case manager fund shall be administered under the direction of the city council. Upon further approval of the city council, the Euless Municipal Court of Record may employ one or more full-time juvenile case managers to assist the court in administering the court's juvenile docket and in supervising its court orders in juvenile cases. The court may pay the salary and benefits of the juvenile case manager from the juvenile case manager fund.

(f) A juvenile case manager employed under this section shall work primarily on cases brought under sections 25.094 "Failure to Attend School" and 25.093 "Parent Contributing to Nonattendance", Texas Education Code.

(Ord. No. 1755, § 1, 9-26-06; Ord. No. 1842, § 1, 3-24-09)

Sec. 2-141 Clerk's record preparation fee

A defendant who desires to appeal from a judgment or order of the Euless Municipal Court of Record shall pay a fee of $25.00 for the preparation of the clerk's record in the appeal. This fee does not include the fee for an actual transcription of the proceedings. The clerk shall note the payment of the fee on the docket of the court. If the case is reversed on appeal, the fee shall be refunded.

(Ord. No. 1808, § 1, 4-8-08)

Secs. 2-142–2-155 Reserved

Division 3. Law Enforcement*(8)

Sec. 2-156 Mutual law enforcement assistance–Assignment of city police authorized

Pursuant to the provisions of V.T.C.A., Local Government Code § 362.002, the chief of police is authorized to assign the regularly employed law enforcement personnel of his department to

assist any other county or municipality in this state, when a state of civil emergency in such county or municipality has been declared by proper authority, upon request by such proper authority, and when, in the opinion of such proper authority, a need exists in such other county or municipality for the services of additional law enforcement officers to protect the health, life and property of such other county or municipality, its inhabitants, and the visitors thereto, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat thereof, by three or more persons acting together or without lawful authority, or during time of natural disaster or manmade calamity.

(Code 1974, § 2-4)

Sec. 2-157 Same–Other officers acting as city police

Whenever any law enforcement officer of any other county or municipality is assigned to this city, under authority of an order adopted by the governing body of such other county or municipality, to assist under circumstances as described in this division which may exist in this city, such officer shall be a peace officer of this city and shall be under the command of the chief of police of this city while so assigned and he shall have all the powers of a regular law enforcement officer of the city as fully as though he were within the county or municipality where regularly employed, and his qualifications, respectively, for office, where regularly employed, shall constitute his qualification for office in this city, and no other oath, bond, or compensation shall be made.

(Code 1974, § 2-5)

State law reference–Similar provisions, V.T.C.A., Local Government Code § 362.003(a).

Sec. 2-158 Same–Prerequisites of office continue for city police when assigned outside city

When any law enforcement officer of this city is ordered by proper authority to perform peace officer duties outside the territorial limits of the city, he shall be entitled to the same wage, salary, pension, and all other compensation, and all other rights for such service, including injury or death benefits, the same as though the service had been rendered within the limits of this city; and he shall also be paid for any reasonable expenses of travel, food or lodging, as well as for damage to equipment and clothing and medical expenses, which he may incur while on duty outside such limits, or while traveling to or from such assignment.

(Code 1974, § 2-6)

State law reference–Similar provisions, V.T.C.A., Local Government Code § 362.003(b).

Sec. 2-159 Same–Reimbursement to other governmental body

When any law enforcement officer is assigned to this city from another county or city under the circumstances described in this division, and upon request of the proper authority of this city, the city will, upon proper request, reimburse the county or city furnishing the services of such law enforcement officer for his actual expenses of travel, food, lodging, and for such cost or damage to equipment and clothing resulting from the services of such law enforcement officer

in this city and for which the county or city where he is regularly employed has paid.

(Code 1974, § 2-7)

State law reference–Similar provisions, V.T.C.A., Local Government Code § 362.003(c).

Secs. 2-160–2-180 Reserved

ARTICLE IV. ELECTIONS*(9)

Division 1. Generally

Sec. 2-181 Manner of conducting

The general manner of conducting city elections shall be governed by the provisions of this chapter, the Charter and the laws of the state where applicable. State law prevails where a conflict exists with the city Charter.

Secs. 2-182–2-200 Reserved

Division 2. Write-In Candidate*(10)

Sec. 2-201 List of candidates

A write-in vote for the office of mayor or city council of the city may not be counted unless the name written in appears on the list of write-in candidates provided for in this division.

(Ord. No. 1042, § I, 1-8-91)

State law reference–Required on list of candidates, V.T.C.A., Election Code § 146.051.

Sec. 2-202 Declaration of candidacy–Generally

(a) To be entitled to a place on the list of write-in candidates, a candidate must make a declaration of write-in candidacy.

(b) A declaration of write-in candidacy must satisfy the requirements prescribed in section 2-204.

(c) A declaration of write-in candidacy is public information immediately upon its filing as provided for in this division.

(Ord. No. 1042, § II, 1-8-91)

State law reference–Declaration of write-in candidacy, V.T.C.A., Election Code § 146.052.

Sec. 2-203 Same–Filing of

(a) A declaration of write-in candidacy must be filed with the city secretary.

(b) A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 30th day before the election called for such office. However, if a candidate whose name is to appear on the ballot dies or is declared ineligible after the 33rd day before the election called for such office, a declaration of write-in candidacy for the office sought by the deceased or ineligible candidate may be filed not later than 5:00 p.m. of the 27th day before the election called for such office.

(c) A declaration of write-in candidacy by mail is considered to be filed at the time of its receipt by the city secretary.

(Ord. No. 1042, §§ III, IV, 1-8-91; Ord. No. 1059, § I(IV), 9-10-91)

State law reference–Similar provisions, V.T.C.A., Election Code §§ 146.025(c), 146.053, 146.054.

Sec. 2-204 Same–Form of

The declaration of write-in candidacy shall be in substantially the following form:

"I, _____, do hereby declare that I am a write-in candidate for the office of _____ and request my name be certified for placement on the list of authorized write-in candidates for such office in the next city general election (or special election should such candidacy be to fill a vacancy in office).

"I am a citizen of the United States of America, a qualified voter of the State of Texas, have resided continuously within the State of Texas for 12 months and in the City of Euless, Texas, for six months immediately preceding such election.

"I presently reside at _____ Street in the City of Euless, Texas, which address is my permanent residence.

"My mailing address, if different from my residence address, is: _____.

"If employed, my occupation is: _____.

"My date of birth is: _____/_____/_____.

"My voter registration certificate number is: _____.

"My telephone numbers (optional) are: Home: _____ Business: _____."

STATE OF TEXAS)

COUNTY OF TARRANT)

BEFORE ME, the undersigned authority, on this date personally appeared _____ who being by me here and now duly sworn, upon oath says: "I, _____, of _____ County, Texas, being a candidate for the office of _____, swear that I will support and

defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the Constitution and laws of the state. I have not been declared mentally incompetent as determined by final judgment of a court, nor have I been finally convicted of a felony for which I have not been pardoned or had may full rights of citizenship restored by other official action. I am aware of the nepotism law, articles 5996a through 5996g of the Texas Revised Civil Statutes. I further swear that the foregoing statements included in my application are in all things true and correct."

_____
(Signature of Candidate)

SWORN TO AND SUBSCRIBED BEFORE ME at _____, this the _____ day of _____/_____/_____, 19_____.

_____
NOTARY PUBLIC IN AND FOR TARRANT COUNTY, TEXAS

Received by:

_____
City Secretary

Date and hour of filing: _____

(Ord. No. 1042, § VIII, 1-8-91)

State law reference–Declaration requirements, V.T.C.A., Election Code § 141.031(4).

Sec. 2-205 Certification of candidates

(a) As soon as reasonably practicable following the filing deadline as provided in this division, the city secretary shall certify, in writing, a list of the names of each candidate who has appropriately filed with the city secretary a declaration that complies with section 2-204.

(b) Each name shall be certified in the form indicated on the candidate's declaration of write-in candidacy subject to the provisions of V.T.C.A., Election Code § 52.031 et seq.

(Ord. No. 1042, § V, 1-8-91)

State law reference–Similar provisions, V.T.C.A., Election Code § 146.029.

Sec. 2-206 Denial of certification

A write-in candidate may not be certified for placement on the list of write-in candidates if:

(1) The information on the candidate's declaration of write-in candidacy indicates that the candidate is ineligible for the office;

(2) Facts indicating that the candidate is ineligible are conclusively established by another public record; or

(3) The candidate is determined ineligible by a final judgment of a court.

(Ord. No. 1042, § VI, 1-8-91)

Sec. 2-207 Distribution and posting of certified list of candidates

(a) The city secretary shall distribute copies of the certified list of eligible write-in candidates to the counting officers in the election for use in counting write-in votes.

(b) Copies of the list, as certified by the city secretary, shall also be distributed to each presiding election judge with other election supplies. A copy of the list of certified write-in candidates shall also be posted in each polling place at each place where an instruction poster is required to be posted.

(Ord. No. 1042, § VII, 1-8-91)

State law reference–Similar provisions, V.T.C.A., Election Code § 146.030.

Secs. 2-208–2-235 Reserved

ARTICLE V. TORT CLAIMS AGAINST THE CITY*(11)

Division 1. Generally

Secs. 2-236–2-255 Reserved

Division 2. Notice of Claims*(12)

Sec. 2-256 Notification by claimant; information required

The city shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or, if the injury results in death, the person or persons who may have a cause of action under the law by reason of such death or injury, shall within 60 days or within six months for good cause shown from the date the damage or injury was received, give notice in writing to the city secretary of the following facts:

(1) The date and time when the injury or damage occurred and the place where the injured person or property was at the time when the injury was received.

(2) The nature of the damage or injury sustained.

(3) The apparent extent of the damage or injury sustained.

(4) A specific and detailed statement of how and under what circumstances the damage

or injury occurred.

(5) The amount for which each claimant will settle.

(6) The actual place of residence of each claimant, by street, number, city and state, on the date the claim is presented.

(7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant, witnessed the happening of the injury or any part thereof, and the names of the doctors, if any, to whose care the injured person is committed.

(8) In the case of property damage, the location of the damaged property, at the time the claim was submitted, along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(Code 1974, § 2-12(a))

Charter reference–Notice of claims, art. XII, § 7.

Sec. 2-257 Filing of notice and refusal by city council of redress, satisfaction, etc., precedent to institution of suit

No suit of any nature whatsoever shall be instituted or maintained against the city unless the plaintiff therein shall aver and prove that, previous to the filing of the original petition, the plaintiff applied to the city council for redress, satisfaction, compensation or relief, as the case may be, and that such redress, satisfaction, compensation or relief was by vote of the city council refused.

(Code 1974, § 2-12(b))

Sec. 2-258 Service of notices

All notices required by this division shall be effectuated by serving them upon the city secretary at the following location: 201 North Ector Drive, Euless, Texas, 76039; and all such notices shall be effective only when actually received in the office of the city secretary.

(Code 1974, § 2-12(c))

Sec. 2-259 Authority to waive section

Neither the mayor, a city councilmember, nor any other officer or employee of the city shall have the authority to waive any of the provisions of this division.

(Code 1974, § 2-12(d))

Sec. 2-260 Swearing to notice of damage or injury

The written notice required under this division shall be sworn to by the person claiming the

damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required in this section and by the Charter shall not render the notice fatally defective, but failure to so verify the notice may be considered by the city council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

(Code 1974, § 2-12(e))

Charter reference–Notice of claim, art. XII, § 7.

Secs. 2-261–2-280 Reserved

Division 3. Officer and Employee Liability Plan*(13)

Sec. 2-281 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City attorney. The duly appointed city attorney of the City of Euless.

City vehicle. A vehicle or mobile equipment either leased or owned by the city.

Loss. An amount which a plan member is legally obligated to pay resulting from an act or omission of the plan member which is covered under this division.

Plan. The city officer and employee liability plan as established by this division.

Plan member. A person who is:

(1) An employee or officer of the city;

(2) A member of a city board, commission or committee created by Charter, ordinance or resolution of the city and a member of the board of directors of any nonprofit corporation created under the authority of the city council as an instrumentality of the city;

(3) A member of the city council; and

(4) A volunteer who has been approved as a volunteer by a departmental volunteer coordinator and who is working under the direction of an employee of the city.

(Code 1974, § 2-110)

Sec. 2-282 Coverage

(a) The city shall indemnify and defend a plan member, in accordance with the terms of this division, against a loss arising out of any claim, suit or judgment resulting from an act or omission of the plan member during the discharge of his duties and within the scope of his

office, employment or assigned volunteer work with the city.

(b) A plan member whose position with the city terminates is entitled to coverage in accordance with this division for any event that occurred while the person was a plan member.

(Code 1974, § 2-111)

Sec. 2-283 Defense

(a) The city will defend any suit against a plan member who is covered under this division even if the suit is groundless or fraudulent.

(b) The city may investigate, negotiate and settle any claim or suit as it determines necessary.

(Code 1974, § 2-112)

Sec. 2-284 Limits of coverage

(a) The city will pay losses covered by this division that a plan member is legally obligated to pay, except that in cases arising from incidents or occurrences where the city's liability exists by virtue of the Texas Tort Claims Act, V.T.C.A., Civil Practice and Remedies Code § 101.001 et seq., whether or not the city is a party defendant, the city will pay those losses covered by this division that a plan member is legally obligated to pay up to, but not exceeding, the limits of liability provided by such act, as amended, for units of local government.

(b) In addition to the coverage provided in subsection (a) of this section, the city will pay:

(1) The city's expenses in investigating and defending the claim or lawsuit;

(2) Costs taxed against a plan member in a suit covered by this division and interest that accrues after entry of judgment before the city has deposited payment with the court on that part of the judgment which does not exceed the limits of coverage;

(3) Reasonable expenses of the plan member incurred at the city's request; and

(4) Attorney's fees ordered by the court to be paid by the plan member, if any.

(c) To be entitled to coverage under the plan a plan member must:

(1) Notify the city attorney in writing as soon as practicable upon receipt of written notice of a claim or lawsuit, but no later than five working days after receipt, unless the city attorney determines that a later notice did not prejudice or harm the city's defense or other handling of such claim;

(2) Cooperate with the city attorney or his designate and, upon the request of the city attorney or his designate, assist in making settlements, in the conduct of suits, and in enforcing any right of contribution or indemnity against a person or organization who may be liable to the city because of injury or damage covered under the plan;

(3) Attend hearings and trials and assist in securing and giving evidence and obtaining the attendance of witnesses;

(4) Not, except upon advice of the city attorney or his designate, or when questioned by a police officer at the scene of an accident, give any oral or written statement or enter into any stipulation or agreement concerning a claim or lawsuit; and

(5) Not, except at his own cost, voluntarily make any payment, assume any obligation, or incur an expense with respect to a claim or lawsuit without the consent of the city attorney or his designate.

(Code 1974, § 2-113)

Sec. 2-285 Plan period

This plan covers only acts or omissions occurring or alleged to have occurred:

(1) While the plan is in effect;

(2) Before the plan was in effect (above any insurance coverage in effect) and which are not barred by any statute of limitations; and

(3) If the plan is cancelled, while the plan is in effect and which are not barred by any statute of limitations.

(Code 1974, § 2-114)

Sec. 2-286 Exclusions from coverage

Coverage under this division does not apply to a claim or lawsuit that is brought against a plan member:

(1) By the city.

(2) Arising out of the intentional or knowing violation of a penal statute or ordinance committed by or with the knowledge or consent of the plan member, or any claim arising out of acts of fraud committed by or at the direction of the plan member with intent to deceive or defraud.

(3) Arising either while the plan member is operating a city vehicle with no authority to operate the vehicle, or while the plan member is operating a city vehicle in the course of personal or private business.

(4) For liability assumed by the plan member under a contract, unless the contract is entered into at the request of the city.

(5) If the plan member joins or attempts to join with the suit against the plan member a claim against the city for benefits under this division.

(6) If the plan member fails to comply with section 2-284.

(7) For punitive damages, where such damages are not recoverable in law or against the city.

(8) For damages expressly excluded under V.T.C.A., Civil Practice and Remedies Code § 102.001(c) and (d).

(Code 1974, § 2-115)

Sec. 2-287 Subrogation

If the payment or legal representation is provided under this division, the city is subrogated to the plan member's rights of recovery against any person or organization to the extent of the city's liability and payments, and the plan member must execute and deliver to the claims board whatever documents are necessary to secure those rights in the sole opinion of the city attorney. The plan member must not do anything after a loss to prejudice those rights.

(Code 1974, § 2-116)

Sec. 2-288 Legal representation

(a) The city will provide legal representation for a plan member upon a claim or suit in which the plan member is covered under this division.

(b) If the city attorney determines that there exists a conflict of interest for the city attorney to represent a plan member, and the plan member is otherwise entitled to coverage under this division, the city will pay the reasonable fee of a private attorney to represent the plan member. The private attorney will be selected by the city attorney.

(Code 1974, § 2-117)

Sec. 2-289 Determination of coverage

If the city denies coverage to a plan member, the plan member may seek a determination of coverage by a court of proper jurisdiction. If the court rules in favor of the plan member, the city shall provide the plan member all benefits under the plan and shall reimburse the plan member for reasonable attorney's fees, expenses and costs incurred in obtaining the determination of coverage.

(Code 1974, § 2-118)

Sec. 2-290 No creation of cause of action

Nothing contained in this plan shall be construed as creating a right or cause of action against a plan member nor giving a right to a third party to institute or maintain a suit which would not otherwise exist under law as a legal claim against a plan member.

(Code 1974, § 2-119)

Secs. 2-291–2-310 Reserved

ARTICLE VI. RECORDS MANAGEMENT*(14)

Sec. 2-311 Definitions generally

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

Essential record. Any record of the city necessary to the resumption or continuation of operations of the city in an emergency or disaster, to the recreation of the legal and financial status of the city, or to the protection and fulfillment of obligations to the people of the state.

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

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

Records liaison officers. The persons designated under section 2-319.

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

Records management officer. The person designated in section 2-315.

Records management plan. The plan developed under section 2-316.

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

(Ord. No. 1039, § 2, 11-27-90)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 2-312 Designation of municipal records

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

(Ord. No. 1039, § 1, 11-27-90)

Sec. 2-313 Municipal records declared public property

All municipal records are hereby declared to be the property of the city. No city official or employee has, by virtue of his position, any personal or property right to such records even though he may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

(Ord. No. 1039, § 3, 11-27-90)

Sec. 2-314 Policy

It is hereby declared to be the policy of the city to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all city records through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.

(Ord. No. 1039, § 4, 11-27-90)

Sec. 2-315 Designation of records management officer

The city council has designated through Resolution No. 90-728 that the city secretary is to serve as records management officer for the city. In the event of the resignation, retirement, dismissal, or removal by action of the city council of the individual so designated, the city council shall promptly designate another individual to serve as records management officer. The individual designated as records management officer shall file his name with the director and librarian of the state library within 30 days of the date of designation, as provided by state law.

(Ord. No. 1039, § 5, 11-27-90)

Sec. 2-316 Records management plan to be developed; approval of plan; authority of plan

(a) The records management officer shall develop a records management plan for the city for submission to the city council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the

essential records of the city, and to properly preserve those records of the city that are of historical value. The plan must be designed to enable the records management officer to carry out his duties prescribed by state law and this article 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, and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

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

(Ord. No. 1039, § 6, 11-27-90)

Sec. 2-317 Duties of records management officer

In addition to other duties assigned in this article, the records management officer shall:

(1) Administer the records management program and provide assistance to department directors in its implementation.

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

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

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

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

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

(7) Provide records management advice and assistance to all city departments by preparation of a manual or manuals of procedure and policy and by onsite consultation.

(8) Monitor records retention schedules and administrative rules issued by the state library and archives commission to determine if the records management program and the city's records control schedules are in compliance with state regulations.

(9) Disseminate to department directors information concerning state laws and

administrative rules relating to local government records.

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

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

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

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

(14) Report annually to the city council on the implementation of the records management plan in each department of the city.

(15) Bring to the attention of the city council noncompliance by department directors or other city personnel with the policies and procedures of the records management program or the local government records act.

(Ord. No. 1039, § 7, 11-27-90)

Sec. 2-318 Duties and responsibilities of department directors

In addition to other duties assigned in this article, department directors shall:

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

(2) Adequately document the transaction of government business and the services, programs, and duties for which the department director and his staff are responsible.

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

(Ord. No. 1039, § 8, 11-27-90)

Sec. 2-319 Designation of records liaison officers

Each department director shall designate a member of his staff to serve as records liaison officer for the implementation of the records management program in the department. Persons designated as records liaison officers shall be thoroughly familiar with all the records created and maintained by the department and shall have full access to all records of the city

maintained by the department. In the event of the resignation, retirement, dismissal, or removal by action of the department director of a person designated as a records liaison officer, the department director shall promptly designate another person to fill the vacancy. A department director may serve as records liaison officer for his department.

(Ord. No. 1039, § 9, 11-27-90)

Sec. 2-320 Duties and responsibilities of records liaison officers

In addition to other duties assigned in this article, records liaison officers shall:

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

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

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

(Ord. No. 1039, § 10, 11-27-90)

Sec. 2-321 Records control schedules to be developed; approval; filing with state

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

(b) Each records control schedule shall be monitored and amended as needed by the records management officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the city. Before its adoption, a records control schedule or amended schedule for a department must be approved by the department director.

(c) Before its adoption, a records control schedule must be submitted to, and accepted for filing by, the director and librarian of the state library 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. No. 1039, § 11, 11-27-90)

Sec. 2-322 Implementation of records control schedules; destruction of records under schedule

(a) A records control schedule for a department that has been approved and adopted under section 2-316 shall be implemented by department directors 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 lawsuit, or the department director requests in writing to the records management officer 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 from the records management officer.

(Ord. No. 1039, § 12, 11-27-90)

Sec. 2-323 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. No. 1039, § 13, 11-27-90)

Sec. 2-324 Records center

A records center, developed pursuant to the plan required by section 2-316, 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 2-316.

(Ord. No. 1039, § 14, 11-27-90)

Sec. 2-325 Penalty for violation of article

Any person violating any of the terms and provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount not to exceed $200.00. Each such violation shall be deemed a separate offense and shall be punishable as such under this article.

(Ord. No. 1039, § 15, 11-27-90)

Secs. 2-326–2-340 Reserved

ARTICLE VII. INTERNAL AUDITS

Sec. 2-341 Definition

The term “audit working paper” has the same meaning, which is given to such term in V.T.C.A.,

Texas' Government Code, § 552.116.

(Ord. No. 1698, § 2, 8-16-05)

Sec. 2-342 Audits authorized

The city manager, or the city manager's designee, has the authority to require one or more employees of the city, authorized by the city manager or such designee, to conduct audits, as directed by the city manager, or the designee, of any program, fund, department or division of the city as the city manager, or such designee, shall direct. The person or persons conducting such audit shall deliver a final audit report to the city manager and/or such other employees of the city as the city manager or the designee of the city manager shall direct. While the audit working papers of the person or persons conducting such audit are exempt from disclosure under applicable provisions of state law, the final audit report of such auditor shall be a public record.

(Ord. No. 1698, § 2, 8-16-05)

CHAPTERS 3 - 5
RESERVED

CHAPTER 6
ALCOHOLIC BEVERAGES*(15)

Sec. 6-1 License or permit fee levied; applicability

There is hereby levied and assessed and shall be collected a license or permit fee from every person pursuing or engaging in any business for which a permit or license is required under V.T.C.A., Alcoholic Beverage Code § 1.01 et seq., in an amount equal to one-half of the state fee charged for such permit or license, as such fee now exists or shall from time to time be established pursuant to such act. Such license or permit fee shall not, however, be applicable to the holder of an agent's, industrial, carrier's, local cartage, or shortage permits, nor to wine and beer retailer's permits issued to operators of dining, buffet, or club cars, and class B winery permits, nor to mixed beverage permits during the first, second and third years of their existence.

(Code 1974, § 21/2-1(a))

Cross reference–Businesses, ch. 18; fees, ch. 30; alcoholic beverage permit fee, § 30-3; taxation, ch. 78.
State law reference–Permit fee authorized, V.T.C.A., Alcoholic Beverage Code § 11.38; license fee authorized, V.T.C.A., Alcoholic Beverage Code § 61.36.

Sec. 6-2 State license or permit required; duration

Before any license or permit shall be issued by the city, the applicant shall furnish appropriate

evidence to show that such applicant has been issued a license or permit to engage in such business by the tax collector of the county on a form prescribed by the comptroller of the state. All permits or licenses issued under this chapter shall terminate contemporaneously with the expiration of the state license or permit of such applicant.

(Code 1974, § 21/2-1(b); Ord. No. 1864, § 1, 10-13-09)

Sec. 6-3 Collection and payment of license or permit fee

The license or permit fee levied by section 6-1 shall be collected by the city and shall be paid by every person before engaging in such business. The city shall issue to the applicant the proper license or permit, which shall state on its face:

(1) The activity for which it is issued;

(2) The date when it will expire;

(3) By whom and where such business is to be conducted;

(4) The place where the license or permit is to be kept; and

(5) What type of business is to be permitted under the license or permit.

(Code 1974, § 21/2-1(c))

Sec. 6-4 Provisions of sections 6-1 through 6-3 deemed cumulative

Sections 6-1 through 6-3 are cumulative of all other ordinances of the city levying and assessing license or occupation taxes on alcoholic beverages, and shall not operate to repeal or affect any such ordinances.

(Code 1974, § 21/2-1(d))

Sec. 6-5 Proximity of establishments selling alcoholic beverages to churches, schools, etc., regulated; penalty for violation

(a) For the purposes of this section, the following terms, phrases, words and their derivations shall have the meaning prescribed to them in this subsection:

(1) Alcoholic beverage means alcohol and any beverage containing more than one-half of one percent of alcohol by volume which is capable of use for beverage purposes, either alone or when diluted.

(2) Dealer means and refers to any natural person or association of natural persons, trustee, receiver, partnership, corporation or other organization holding a permit for the sale of alcoholic beverages or mixed beverages under the state alcoholic beverage code and any manager, agent, servant or employee of any of them.

(3) Mixed beverage means one or more servings of a beverage composed in whole or

part of an alcoholic beverage in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit, the holder of a daily temporary mixed beverage permit, the holder of a caterer's permit, or the holder of a private club registration permit.

(b) (1) Sales near church, public school or public hospital. It shall be unlawful and an offense for any dealer within the corporate limits of the city to sell from a place of business an alcoholic beverage or mixed beverage within 300 feet of any church, public school or public hospital. The measurement of the distance between such place of business and any church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of distance between such place of business and a public school shall be in a direct line from the nearest property line of the public school to the nearest property line of the place of business, and in direct line across intersections. Provided, however, that the city council may allow variances to the distance regulation as stated herein if the city council determines that enforcement of such regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the city council, after consideration of the health, safety and welfare of the public and the equities of the situation, determines is in the best interest of the community.

(2) Sales near day-care center or child-care facility.

a. This subsection applies only to a permit or license holder under V.T.C.A., Alcoholic Beverage Code, ch. 25, 28, 32, 69, or 74, who does not hold a food and beverage certificate.

b. Except as provided by this subsection, the provisions of subsection (b)(1) relating to a public school also apply to a day-care center and a child-care facility as those terms are defined by V.T.C.A., Human Resources Code, § 42.002.

c. This subsection does not apply to a permit or license holder who sells alcoholic beverages, if:

1. The permit or license holder and the day-care center or child-care facility are located on different stories of a multi-story building; or

2. The permit or license holder and the day-care center or child-care facility are located in separate buildings and either the permit or license holder or the day-care center or child-care facility is located on the second story or higher of a multistory building.

d. This subsection does not apply to a foster group home, foster family home, family home, agency group home, or agency home as those terms are defined by V.T.C.A., Human Resources Code, § 42.002.

(c) Any person violating the terms and provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Such violation shall be deemed a violation of a provision governing zoning and public health.

(Code 1974, § 21/2-2; Ord. No. 1077, § IV, 5-12-92; Ord. No. 1148, § I, 8-9-94; Ord. No. 1475, § 1, 6-26-01)

Cross reference–Businesses, ch. 18; streets and sidewalks, ch. 70; unified development code, ch. 84.
State law reference–Authority to restrict sales, V.T.C.A., Alcoholic Beverage Code § 109.33.

CHAPTERS 7 - 9
RESERVED

CHAPTER 10
ANIMALS*(16)

ARTICLE I. IN GENERAL

Sec. 10-1 Purpose

The animal control regulations as established in this chapter have been made for the purpose of promoting the health, safety, morals and general welfare of the city. This chapter contains standards regulating the use, type, location, maintenance, registration, confinement, destruction and harboring of certain animals. The intent of these regulations, prohibitions and provisions is to protect property values within the city, to enhance the quality of life of persons, pets and other animals, and to protect the general public from damage and injury which may be caused by unregulated animals.

(Code 1974, § 3-1)

Sec. 10-2 Definitions

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

Animal means any living, vertebrate creature, domestic or wild, other than homo sapiens.

Animal control officer means an employee of the city designated by the city manager to supervise the operation and maintenance of the city animal shelter and to carry out and enforce the provisions of this chapter.

Bodily injury has the meaning assigned under V.T.C.A., Penal Code § 1.07.

Dangerous dog means a dog that:

(1) Makes an unprovoked attack on a person that causes bodily injury and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(2) Commits unprovoked acts in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person.

Dog means a domesticated animal that is a member of the canine family.

Estray (livestock) means domestic animals generally used or raised on a farm for profit or use, including, but not limited to, a stallion, horse, mare, gelding, filly, colt, mule, jinny, jack, jennet, sheep, goat or any species of cattle, but specifically excluding prohibited animals.

Owner means any person owning, keeping or harboring one or more animals. An animal shall be deemed to be owned by a person who shall harbor, feed or shelter such animal for more than three consecutive days.

Pet animals means and shall include dogs, cats, rabbits, rodents, birds, fish and any other species of animal, except prohibited animals, which are kept for pleasure rather than utility.

Prohibited animals means any animal prohibited in section 10-7.

Rabies vaccination means the vaccination of a dog, cat or other domestic animal with an antirabies vaccine approved by the state department of health and administered by a veterinarian licensed by the state.

Residential premises means any property zoned for, or utilized, as a multifamily, four-plex, tri-plex, duplex, single-family dwelling or mobile home.

Running at large means to be free of restraint as provided in section 10-61.

Serious bodily injury means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent person to seek treatment from a medical professional and would require hospitalization without regard to whether the person actually sought medical treatment.

Vicious animal means an animal, including a dog other than a dangerous dog as defined herein, that makes an unprovoked attack on a pet animal or person that causes injury or death and occurs in a place other than an enclosure in which the animal was being kept and that was reasonably certain to prevent the animal from leaving the enclosure on its own.

(Code 1974, § 3-2; Ord. No. 1878, § I, 6-8-10; Ord. No. 1957, § 1, 6-26-12)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 10-3 Slaughtering animals

It shall be unlawful to slaughter or to maintain any property for the purpose of slaughtering any animal in the city.

(Code 1974, § 3-10)

Cross reference–Businesses, ch. 18; health and sanitation, ch. 42.
State law reference–Authority to regulate, etc., V.T.C.A., Local Government Code § 215.072; slaughterhouses, V.T.C.A., Health and Safety Code §§ 433.023, 438.061.

Sec. 10-4 Authority to destroy certain animals

Any peace officer, health officer, licensed veterinarian or animal control officer may kill any dog, cat or other animal suspected of having rabies and any vicious animal.

(Code 1974, § 3-19; Ord. No. 1878, § II, 6-8-10)

Cross reference–Rabies control, § 10-131 et seq.
State law reference–Destruction of dogs, V.T.C.A., Health and Safety Code § 822.003; dangerous dogs, V.T.C.A., Health and Safety Code § 822.041 et seq.

Sec. 10-5 Exceptions and exemptions not required to be negated

In any complaint and in any action or proceedings brought for the enforcement of any provision of this chapter, it shall not be necessary to negate any exception, excuse, provision or exemption, which burden shall be upon the defendant.

(Code 1974, § 3-25)

Sec. 10-6 Nonconforming uses under sections 10-100 and 10-104

(a) The owner or occupant of any premises on the effective date of this chapter keeping and maintaining any livestock in compliance with the provisions of section 10-100 in effect prior to the adoption of this chapter shall, on or before January 1, 1988, register such nonconforming use with the animal control officer on forms promulgated therefor, which registration shall state the name of such owner or occupant, a description of the nonconforming premises, the number and a description of all livestock kept and maintained on the date of such registration. Such nonconforming use as to the keeping and maintenance of such livestock, and only such livestock, may continue. No additional or other livestock may be substituted therefor and such nonconforming use shall be nontransferable to another owner or occupant of such premises. Any owner or occupant of premises which are nonconforming with section 10-104, as amended in this chapter, on the effective date of this chapter, and who does not register such nonconforming use prior to January 1, 1988, shall bring such premises into compliance with the provisions of section 10-104 from and after January 1, 1988.

(b) The owner or occupant of any premises on the effective date of this chapter keeping and maintaining any prohibited animals as defined in this chapter who registers, prior to January 1, 1988, the keeping and maintenance of such prohibited animals with the animal control officer on forms promulgated therefor, which registration shall state the name of such owner or

occupant, a description of the premises where such prohibited animals are kept or maintained, the number and a complete description of all such prohibited animals maintained on the date of such registration, may continue to keep and maintain such prohibited animals until July 1, 1988, provided such prohibited animals are kept and maintained in conformity with the provisions of section 10-103 in effect prior to the adoption of this chapter. No additional or other prohibited animals may be kept or maintained by such registrant and only those prohibited animals being kept and maintained on the date of such registration may thereafter be kept and maintained until July 1, 1988. Any owner or occupant of a premises containing prohibited animals prior to the effective date of this chapter who shall not register such prohibited animals with the animal control officer on or before January 1, 1988, shall remove such prohibited animals from the corporate limits of the city no later than January 1, 1988.

(Code 1974, § 3-26)

Sec. 10-7 Prohibited animals

(a) The animals which are prohibited for sale or possession include, but are not limited to, the following:

(1) Class reptilia:

a. Family helodermatidae (the venomous lizards) and all varanidae (monitor).

b. Order ophidia, family biodae (boas, pythons, anacondas); family hydrophiidae (marine snakes); family viperidae (rattlesnakes, pit vipers and true vipers); family elapidae (coral snakes, cobras and mambas); family colubridae-dispholidus typus (boomslang); bioga dendrophila (mangrove snake) and kirtlandii (twig snake) only.

c. Order crocodilia (such as crocodiles and alligators).

d. Order Testudines (all turtles).

(2) Class aves: Order falconiforms (such as hawks, eagles, falcons and vultures) and subdivision raptae (such as ostriches, rheas, cassowaries and emus).

(3) Class mammalia:

a. Order carnivores, the family felidae (such as lions, tigers, bobcats, jaguars, leopards and cougars), except commonly domesticated cats; the family canidae (such as wolves, dingos, coyotes, foxes and jackals), except commonly domesticated dogs; the family mustelidae (such as weasels, skunks, martins, minks, badgers); family procyonidae (racoon); family ursidae (such as bears).

b. Order marsupialia (such as kangaroos, oppossums, koala bears, wallabies, bandicoots, and wombats).

c. Order chiroptera (bats).

d. Order edentata (such as sloths, anteaters, and armadillos).

e. Order proboscidea (elephants).

f. Order primata (such as monkeys, chimpanzees, orangutans and gorillas).

g. Order rodentia (such as beavers, porcupines).

h. Order ungulata (such as antelope, deer, bison and camels).

(4) Class amphibia: Poisonous frogs.

(b) Prohibited animals shall also include nonpoisonous snakes of a species which reaches a length greater than six feet, those species of fish the possession of which is prohibited by state law, and pigs, including hogs or sows.

(c) Prohibited animals shall not include birds kept or maintained for educational or rehabilitative purposes by persons holding permits therefor from the state department of parks and wildlife or the United States Department of Fish and Wildlife.

(Code 1974, § 3-2; Ord. No. 1878, § III, 6-8-10)

Sec. 10-8 Tampering with traps and equipment

No person shall remove, alter, damage or otherwise tamper with a trap or equipment set out by the animal control officer.

(Code 1974, § 3-18)

Sec. 10-9 Penalty for violations of chapter

Any person violating the terms and provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. No fine imposed hereunder shall be less than $25.00.

(Code 1974, § 3-24; Ord. No. 1077, § V, 5-12-92)

State law reference–Penalties, V.T.C.A., Health and Safety Code §§ 822.032, 822.034, 822.035, 822.045, 822.046.

Secs. 10-10–10-35 Reserved

ARTICLE II. ADMINISTRATION*(17)

Sec. 10-36 Animal control officer–Duties

It shall be the duty of each animal control officer under the supervision of the city manager to carry out all applicable provisions of this chapter and to pick up and impound all animals found to be in violation of this chapter.

(Code 1974, § 3-22; Ord. No. 1878, § IV, 6-8-10)

Charter reference–Bonds of city officers and employees, etc., art. XII, § 13.
Cross reference–Officers and employees, § 2-116 et seq.

Sec. 10-37 Same–Right of ingress

Any animal control officer shall have the right of ingress on any property within the city in order to carry out the provisions of this chapter, and to determine the condition of any animal, bird or fowl, but in no event shall any animal control officer enter a structure used for human habitation without consent of the occupant unless first securing a search or arrest warrant.

(Code 1974, § 3-23)

Secs. 10-38–10-60 Reserved

ARTICLE III. CARE AND CONTROL

Sec. 10-61 Animals running at large, generally

(a) It shall be unlawful for any person owning an animal to permit such animal to run at large.

(b) An animal shall be considered to be running at large unless it is restrained under the following circumstances:

(1) It is securely caged or confined to its owner's home or yard, which yard is enclosed by a fence of sufficient strength and height to prevent the animal from escaping therefrom, or secured on the premises by a chain, leash or other restraining line of sufficient strength to prevent the animal from escaping from the premises and so arranged that the animal will remain upon the premises when the chain, leash or restraining line is stretched to full length. No such chain, leash or restraining line shall be less than ten feet in length.

(2) It is accompanied by its owner or trainer at a bona fide show, field trial or exhibition.

(3) It is secured by a leash or rein of sufficient strength to restrain and control the animal.

(4) It is a guard dog appropriately registered under the provisions of section 10-73 and is in the performance of duty in an enclosed building or securely fenced and locked area marked as provided in section 10-73.

(c) Any officer or citizen of the city is hereby authorized to take up and deliver to the animal control officer any animal that may be found running at large in the corporate limits of the city.

(d) Any peace officer or animal control officer of the city is authorized to impound any animal running at large or otherwise found in violation of this chapter. If the animal running at large, or in violation of this chapter, is on private property, or property of the animal's owner, such peace officer or animal control officer may enter such premises, other than a private dwelling, for the purpose of impoundment or the issuance of a citation, or both, subject to the applicable provisions of the law.

(Code 1974, § 3-4)

State law reference–Certain dogs prohibited from running at large, V.T.C.A., Health and Safety Code §§ 822.011, 822.042; authority to adopt, V.T.C.A., Health and Safety Code § 826.033.

Sec. 10-62 Fowl running at large

It shall be unlawful for any person to permit, suffer or allow any chickens, ducks, turkeys, geese or other fowl owned, kept or possessed by them or under their control, to run at large outside of a cage or pen.

(Code 1974, § 3-5)

Sec. 10-63 Confinement during estrus

Any unspayed female dog or cat in the state of estrus (heat) shall be confined during such period of time in a house, building or secure enclosure, and such area or enclosure shall be so constructed that no other dog or cat from outside such enclosure may gain access to the confined animal. Owners not complying may be ordered by an animal control officer to remove the animal in heat to a boarding kennel, veterinary hospital or animal shelter. All expenses incurred as a result of such confinement shall be the responsibility of the owner. Failure to comply with the removal order of an animal control officer shall be a violation of this chapter and the dog or cat may be impounded as prescribed in this chapter.

(Code 1974, § 3-6)

Sec. 10-64 Fees

Fees for impoundment of animals, newspaper advertisements, handling and disposing of dead animals and any other fees authorized or permitted under this chapter shall be as set forth in chapter 30.

(Code 1974, § 3-8)

Cross reference–Fees for impoundment of animals, etc., § 30-4.

Sec. 10-65 Animal care

If the following shall occur, the animal may be impounded and the owner shall be guilty of a violation of this chapter:

(1) The owner shall fail to provide an animal with sufficient and wholesome food and

water, adequate shelter and protection from weather, veterinary care when needed to prevent suffering, and humane care and treatment.

(2) A person shall beat, cruelly ill treat, torment, abuse, overload, overwork or otherwise harm an animal, or cause, instigate or permit any dog fight, cock fight, bullfight or other combat between animals or between animals and humans.

(3) A person shall abandon or dump any animal.

(4) A person shall willfully wound, trap, maim or cripple by any method any animal, bird or fowl. It shall also be unlawful for a person to kill any animal, bird or fowl within the city.

(5) A person shall sell, offer for sale, barter or give away baby chicks, ducklings or other fowl, rabbits or hamsters as novelties, whether or not dyed, colored or otherwise artificially treated; provided, however, that this section shall not be construed to prohibit the display or sale of natural chicks, ducklings or other fowl in proper brooder facilities from hatcheries or stores engaged in the business of selling such chicks, ducklings or other fowl to be raised for commercial purposes, or the sale of rabbits or hamsters as pets.

(6) A person shall give away any live animal as a prize for, or as an inducement to enter any contest, game or other competition, or as an inducement to enter into any business agreement except as to the offering of offspring in a breeding transaction.

(7) The failure of a person in operation of a motor vehicle who strikes a pet animal or livestock to immediately report such injury or death to the animal's owner, and if the owner cannot be ascertained and located, such person shall fail to report the accident to an animal control officer or peace officer.

(8) A person exposes any known poisonous substance, whether mixed with food or not, so that such poisonous substance shall be liable to be eaten by a pet animal, livestock or person. This section is not intended to prohibit the prudent use of herbicides, insecticides or rodent control materials. A person shall also not expose an open trap or metal jaw-type trap that shall be liable to injure any pet animal, livestock or person.

(9) A person leaves an animal in a vehicle for more than two hours or less than two hours if, in the opinion of the animal control officer on the scene, the ambient humidity and temperature conditions create a danger to the animal's health and welfare. Animal control shall remove the animal from the vehicle after notifying the city police department. Any costs associated with such removal shall be assessed against the owner of the animal, and must be paid before the animal will be released to the owner. A notice to the operator of the vehicle shall be placed in the vehicle advising the operator of the vehicle that the animal has been impounded and the location where the animal is impounded.

(Code 1974, § 3-9; Ord. No. 1878, § V, 6-8-10)

State law reference–Cruelty to animals, V.T.C.A., Penal Code § 42.11.

Sec. 10-66 Barking/noise

Any person who shall harbor or keep on his premises, or in or about the premises under his control, any animal which barks, whines, howls, crows, cackles, or makes any noise excessively and continuously, and such noise causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof, shall be guilty of a violation under this chapter, and a separate offense shall be deemed committed each day during or on which such violation occurs or continues.

(Code 1974, § 3-11; Ord. No. 1675, § 1, 1-25-05)

Cross reference–Noise, § 46-171 et seq.

Sec. 10-67 Sanitary condition of animal pens

Any person who shall harbor or keep on his premises, or in or about a premises under his control, any animal or fowl, and who shall allow such premises to become a hazard to general health and welfare of the community, or who shall allow such premises to give off noxious or offensive odors due to the activity or presence of such animals, shall be guilty of a violation of this chapter.

(Code 1974, § 3-12)

Sec. 10-68 Restriction on number of dogs, cats or any other animals, or combination, to be kept in residential premises

It shall be unlawful to keep or harbor more than four dogs, cats or other animals, or combination of animals, beyond the normal weaning age on any premises, except as permitted in section 10-104.

(Code 1974, § 3-13)

Cross reference–Unified development code, ch. 84.

Sec. 10-69 Keeping of prohibited animals

It shall be unlawful to keep or harbor any prohibited animal within the city.

(Code 1974, § 3-14)

Cross reference–Definition of prohibited animals, § 10-1.

Sec. 10-70 Disposal of dead animals

It shall be illegal for an owner of any dead animal, fowl or livestock (estray) to fail to lawfully dispose of the dead animal within 24 hours of its discovery by the owner.

(Code 1974, § 3-15)

Sec. 10-71 Vicious animal

(a) Determination of vicious animal by complaint to municipal court.

(1) A person may report an incident described by the definition of vicious animal as contained in section 10-2 of this chapter to the municipal court by filing a sworn complaint detailing the incident. The judge of the municipal court shall review each report filed pursuant to this section and shall issue a warrant authorizing animal control to seize the animal in question only upon a showing of probable cause to believe that the animal complained of meets the definition of vicious animal.

(2) Upon receipt of a warrant from the judge of the municipal court issued pursuant to subsection (a)(1) of this section, the animal control officer shall seize the animal and impound the animal in secure and humane conditions until the municipal court orders the disposition of the animal.

(3) The municipal court shall set a time for a hearing to determine whether the animal is a vicious animal. The hearing must be held not later than the 10th day after the date on which the animal was seized. The municipal court shall give written notice of the time and place of the hearing to:

a. The owner of the animal or the person from whom the animal was seized; and

b. The person who made the sworn complaint.

(4) Any interested party, including the city attorney, may present evidence at the hearing.

(5) Upon a determination that the animal complained of is a vicious animal, the judge may order any of the following:

a. The owner of the animal to restrain the animal at all times on a leash, harness, or other restraining device, with a muzzle, or within a fenced enclosure secure enough to prevent the animal's escape; and/or the owner of the animal to obtain liability insurance coverage or show financial responsibility in an amount of at least $100,000.00 and provide proof of the required liability insurance coverage or financial responsibility to the animal control department;

b. The animal to be removed from the City of Euless within a certain time period; or

c. The animal to be humanely destroyed.

(6) Upon a determination that the animal complained of is not a vicious animal, the judge shall order the animal control officer to release the animal back to its owner or the person from whom the animal was seized.

(7) The owner of an animal or the person making the complaint may appeal the decision of the municipal court in the manner provided for the appeal of cases from the municipal court.

(b) Authority of animal control to impound.

(1) If a person reports an incident described by the definition of vicious animal in section 10-2 of this chapter, the animal control officer may investigate the incident and impound the animal in secure and humane conditions if the animal is determined to be an immediate danger to persons or pet animals.

(2) The animal control officer shall then request a hearing pursuant to subsection (a) of this section to determine whether the impounded animal is a vicious animal.

(3) If impoundment cannot be done safely, nothing in this chapter shall impair, restrict or remove the authority of an animal control officer or a peace officer to destroy an animal who is determined to be an immediate danger to a person or domestic animal.

(c) Violations.

(1) A person commits an offense if the person is the owner of an animal and the person, with criminal negligence, fails to secure the animal and the animal makes an unprovoked attack that causes injury or death to a pet animal at a location other than the owner's real property or in or on the owner's motor vehicle or boat.

(2) A person commits an offense if the person is the owner of an animal determined to be vicious under this section and the owner fails to comply with an order issued by the judge pursuant to subsection (a)(5) of this section.

(3) An offense under this section is a class C misdemeanor.

(4) If a person is found guilty of an offense under this section, the judge of the municipal court may order the attacking animal destroyed.

(5) It is a defense to prosecution under this subsection that:

a. The person charged is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the animal in connection with that position.

b. The person charged is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

c. The person charged is a dog trainer or an employee of a guard dog company under V.T.C.A., Occupations Code, ch. 1702.

(Ord. No. 1878, § VI, 6-8-10; Ord. No. 1957, § 2, 6-26-12)

Editor's note–Ord. No. 1957, § 2, adopted June 26 2012, changed the title of § 10-71 from dogs or animals that attack persons or domestic animals to vicious animal.

Sec. 10-72 Dangerous dogs

(a) Determination that a dog is dangerous.

(1) If a person reports an incident described by the definition of dangerous dog as contained in section 10-2 of this chapter, the animal control officer may investigate the incident. If, after receiving the sworn statements of any witnesses, the animal control officer determines the dog is a dangerous dog, it shall notify the owner of that fact.

(2) An owner, not later than the 15th day after the date the owner is notified that a dog owned by the owner is a dangerous dog, may appeal the determination of the animal control officer to the municipal court whereupon a hearing will be held pursuant to subsection (c).

(b) Reporting of incident.

(1) A person may report an incident described by the definition of dangerous dog as contained in section 10-2 of this chapter to the municipal court. The owner of the dog shall deliver the dog to the animal control officer not later than the fifth day after the date on which the owner receives notice that the report has been filed. The animal control officer may provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog.

(2) If the owner fails to deliver the dog as required by subsection (b)(1) of this section, the animal control officer may report this failure to the municipal court whereupon the judge may issue a warrant authorizing seizure of the dog. The animal control officer shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions until the court orders the disposition of the dog. The owner shall pay any cost incurred in seizing the dog.

(3) The judge shall determine, after notice and hearing as provided in subsection (c) of this section, whether the dog is a dangerous dog.

(4) The judge, after determining that the dog is a dangerous dog, may order the animal control officer to continue to impound the dangerous dog in secure and humane conditions until the court orders disposition of the dog and the dog is returned to the owner, ordered removed from the city, or destroyed.

(5) The owner shall pay any cost or fee associated with the continued impoundment under subsection (b)(4) of this section.

(6) The City of Euless, by the adoption of this subsection, hereby elects to be governed by V.T.C.A., Health and Safety Code § 822.0422.

(c) Hearing.

(1) The court shall set a time for a hearing to determine whether the dog is a dangerous dog or whether the owner of the dog has complied with subsection (d) of this section. The hearing must be held not later than the tenth day after the date on which the dog is seized or delivered.

(2) The court shall give written notice of the time and place of the hearing to:

a. The owner of the dog or the person from whom the dog was seized; and

b. The person who made the report.

(3) Any interested party, including the city attorney, may present evidence at the hearing.

(4) The owner of a dog or the person making the report may appeal the decision of the municipal court in the manner provided for the appeal of cases from the municipal court.

(d) Requirements for owner of dangerous dog.

(1) Unless an appeal is pending pursuant to subsection (a)(2) of this section; not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall:

a. Register the dangerous dog with the city animal control department;

b. Restrain the dangerous dog at all times on a leash, harness, or other restraining device, and with a muzzle in the immediate control of a person or in a secure enclosure, as defined by V.T.C.A., Health and Safety Code § 822.041;

c. Obtain liability insurance coverage or show financial responsibility in an amount of at least $100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person and provide proof of the required liability insurance coverage or financial responsibility to the animal control officer for the area in which the dog is kept; and

d. Comply with all applicable city or state regulations, requirements, or restrictions on dangerous dogs.

(2) In addition to or in lieu of the requirements of subsection (d)(1) of this section, unless an appeal is pending, the animal control officer or the judge may order that the dog be permanently removed from the city within said 30-day period.

(3) The owner of a dangerous dog who does not comply with subsection (d)(1) of this section shall deliver the dog to the animal control officer not later than the 30th day

after the owner learns that the dog is a dangerous dog.

(4) If the judge finds, after notice and hearing provided by subsection (c) of this section, that the owner of a dangerous dog has failed to comply with subsections (d)(1) (2) or (3) of this section, the judge shall order the animal control officer to seize the dog and shall issue a warrant authorizing the seizure. The animal control officer shall seize the dog and shall provide for the impoundment of the dog in secure and humane conditions.

(5) The owner shall pay any cost or fee assessed by the city related to the seizure, acceptance, impoundment, or destruction of the dangerous dog.

(6) The court shall order the animal control officer to humanely destroy the dog if the owner has not complied with subsection (d)(1) of this section before the 11th day after the date on which the dog is seized or delivered to the animal control officer. The court shall order the animal control officer to return the dog to the owner if the owner complies with subsection (d)(1) of this section before the 11th day after the date on which the dog is seized or delivered to the authority.

(7) The court may order the humane destruction of a dog if the owner of the dog has not been located before the 15th day after the seizure and impoundment of the dog.

(8) For purposes of this subsection, a person learns that the person is the owner of a dangerous dog when:

a. The owner knows of an attack described by the definition of dangerous dog as contained in this chapter;

b. The owner received notice that a justice court, county court, or municipal court has found that the dog is a dangerous dog; or

c. The owner is informed by the animal control officer that the dog is a dangerous dog under this section.

(e) Registration.

(1) The animal control officer shall annually register a dangerous dog if the owner:

a. Presents proof of:

1. Liability insurance or financial responsibility, as required by subsection (d)(1)c. of this section;

2. Current rabies vaccination of the dangerous dog; and

3. The secure enclosure in which the dangerous dog will be kept; and

b. Payment of an annual registration fee as set forth in section 30-4 of this Code.

(2) The animal control officer shall provide to the owner registering a dangerous dog a registration tag. The owner must place the tag on the dog's collar.

(3) If an owner of a registered dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control authority of the new address where the dog is located. On presentation by the current owner of the dangerous dog's prior registration tag and payment of a fee as set forth in section 30-4 of this Code, the animal control officer shall issue a new registration tag to be placed on the dangerous dog's collar.

(4) An owner of a registered dangerous dog shall notify the animal control officer of any attacks the dangerous dog makes on people.

(f) Attack by dangerous dog.

(1) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the other person.

(2) An offense under this section is a class C misdemeanor.

(3) If a person is found guilty of an offense under this section, the court may order the dangerous dog destroyed by a person listed in V.T.C.A., Health and Safety Code § 822.004.

(g) Violations.

(1) A person who owns or keeps custody or control of a dangerous dog commits an offense if the person fails to comply with subsection (d) or (e)(1) of this section.

(2) An offense under this section is a class C misdemeanor.

(h) Defenses.

(1) It is an affirmative defense to prosecution under subsection (f) or (g) of this section that the person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position.

(2) It is an affirmative defense to prosecution under subsection (f) or (g) of this section that the person is an employee of the institutional division of the state department of criminal justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes.

(3) It is an affirmative defense to prosecution under subsections (f) and (g) of this section that the person is a dog trainer or an employee of a guard dog company under V.T.C.A., Occupations Code, ch. 1702.

(i) Authority of animal control officer.

(1) In addition to any other authority conferred by this Code or state law, an animal control officer or a peace officer shall have the authority to immediately seize and impound any animal that bites a person.

(2) If impoundment cannot be done safely, nothing in this chapter shall impair, restrict or remove the authority of an animal control officer or a peace officer to destroy an animal who is determined to be an immediate danger to a person.

(Ord. No. 1878, § VI, 6-8-10; Ord. No. 1957, § 2, 6-26-12)

Sec. 10-73 Guard dogs

(a) All dogs kept solely for the protection of premises and property, residential, commercial or personal, shall be registered with the city animal shelter. The building area or premises in which such dog is confined shall be conspicuously posted on all sides with warning signs bearing letters not less than two inches high, stating "GUARD DOG ON PREMISES."

(b) Each guard dog shall be issued a tag designating that animal as a guard dog for a fee as set forth in section 30-4(l). Such tag shall be attached to the collar or harness of the guard dog at all times, and shall bear the words "GUARD OR ATTACK DOG." Owners of guard dogs registered hereunder shall be required to comply with the provisions of section 10-133.

(c) The building area or premises where a guard dog is maintained shall be subject to inspection by any animal control officer to determine that the animal in question is maintained and secured at all times in such a manner as to prevent its contact with the public.

(Code 1974, § 3-17; Ord. No. 1098, § II, 10-13-92; Ord. No. 1878, § VI, 6-8-10)

Editor's note–Ord. No. 1878, § VI, adopted June 8, 2010, renumbered the former § 10-72, guard dogs, as § 10-73.
Cross reference–Fee for identification tag, § 30-4.

Sec. 10-74 Defecation of animals on public and private property; failure to remove and dispose of excreta

(a) An owner, harborer, or other person having care, custody, or control of an animal commits an offense if he/she knowingly permits, or by insufficient control, allows the animal to defecate in the city on private property or on property located in a public place unless;

(1) The owner, harborer, or other person having care, custody, or control of the animal immediately and in a sanitary and lawful manner remove and dispose of, or caused the removal and disposal of, all excreta deposited on the property by the animal;

(2) The property was owned, leased, or controlled by the owner, harborer, or person having care, custody, or control of the animal;

(3) The owner or person in control of the property had given prior consent for the animal

to defecate on the property; or

(4) The animal was being used in official law enforcement activities.

(b) This section does not apply to an animal that is specially trained to assist a person with a disability and that was in the care, custody, or control of that disabled person at the time it defecated or was otherwise present on private property or on property located in a public place

(c) A person who violates this section is guilty of violation of this chapter.

(Ord. No. 1674, § 1, 1-25-05; Ord. No. 1878, § VI, 6-8-10)

Editor's note–Ord. No. 1878, § VI, adopted June 8, 2010, renumbered the former § 10-73, defecation of animals on public and private property; failure to remove and dispose of excreta, as § 10-74.

Sec. 10-75 Registration of dogs and cats

(a) Any person owning or harboring any dog or cat or allowing such dog or cat to reside or be domiciled within the city may register such dog or cat and obtain a registration tag for such dog or cat.

(b) The owner or harborer of a dog or cat in the city will be issued a registration tag upon certification of current rabies immunization in accordance with article V of this chapter.

(c) Registration of a dog or cat may be performed at the city animal shelter or by other means that may be established by the city in the future. Registration information shall include but not be limited to the name, address, e-mail address and phone number of the owner or harborer, the breed, sex and coloring of the dog or cat registered, rabies tag number and the name and address of the veterinarian administering the rabies immunization.

(d) A dog or cat at large that is picked up by the city animal control that does not have a city registration tag will be required to be registered. The owner or harborer of such dog or cat will be charged a registration fee as set forth in section 30-4 of this Code prior to the release of such dog or cat to the owner or harborer.

(Ord. No. 1811, § 1, 5-27-08; Ord. No. 1878, § VI, 6-8-10)

Editor's note–Ord. No. 1878, § VI, adopted June 8, 2010, renumbered the former § 10-74, registration of dogs and cats, as § 10-75.

Sec. 10-76 Bees

(a) It shall be unlawful to keep bees in such a manner as to deny any person the reasonable use and enjoyment of adjacent property or endanger the personal health and welfare of the inhabitants of the City of Euless.

(b) Upon receipt of a sworn complaint by any person, including the city attorney or a peace officer, to the municipal court that bees are being kept in a manner that denies the reasonable use and enjoyment of adjacent property or endangers the personal health and welfare of the inhabitants of the city, the municipal court shall set a time for a hearing to determine whether

the bees are being kept in violation of this chapter. The hearing shall be held not later than the 15th day after the judge of the municipal court receives and reviews the complaint.

(c) The municipal court shall give written notice of the time and place of the hearing to:

(1) The owner of the bees or the person maintaining the bees.

(2) The person who made the sworn complaint.

(d) Any interested party, including the city attorney, may present evidence at the hearing.

(e) If the municipal court determines that the bees deny to any person the reasonable use and enjoyment of adjacent property or endanger the personal health and welfare of the inhabitants of the city, the municipal court shall order the bees removed from the property. Upon receipt of such order, the owner or person maintaining the bees shall remove the bees within ten calendar days of the order. Failure to comply with the municipal court order shall constitute a separate violation of this Code for each day of non-compliance, and in addition, the city may contract for the removal of the bees and charge the owner or person maintaining the bees for such removal.

(f) A violation of this section shall be considered a violation of an ordinance governing public health and safety, and the enhanced remedies provided for such violations in section 1-12 of this Code shall apply, and no person shall ever acquire a vested right to use his property in violation hereof.

(Ord. No. 1878, § VII, 6-8-10)

Secs. 10-77–10-95 Reserved

ARTICLE IV. ESTRAYS*(18)

Sec. 10-96 Unattended estrays (livestock)

(a) It shall be unlawful for any person to allow an estray (livestock) to be unattended upon any public street, alley, thoroughfare or upon the property of another in the corporate city limits of the city.

(b) The person having ownership or right to immediate control of such estray (livestock) shall have the burden to keep such estray (livestock) off the public streets, alleys and thoroughfares or the property of another in the city.

(Code 1974, § 3-40)

Sec. 10-97 Impoundment

It shall be the duty of the animal control officer to take up any and all estrays (livestock) that may be found in and upon any street, alley or in or upon any unenclosed lot in the city, or otherwise to be found at large, and to confine such estrays (livestock) for safekeeping. Upon

impounding an estray (livestock), the animal control officer shall prepare a notice of estray and file such notice in the "estray book" located in the office of the animal control officer. Each entry shall include the following:

(1) The name and address of the person who notified the animal control officer of the estray (livestock).

(2) The location of the estray (livestock) when found.

(3) The location of the estray (livestock) pending disposition.

(4) A description of the animal including its breed, color, sex, age, size and all marking of any kind, also any other identifying characteristics.

(Code 1974, § 3-41)

State law reference–Impoundment of estrays, V.T.C.A., Agriculture Code §§ 142.009, 142.010.

Sec. 10-98 Advertisement of impounded estrays (livestock)

When an estray (livestock) has been impounded, the animal control officer shall make a diligent search of the register of recorded brands in the county for the owner of the estray (livestock). If the search does not reveal the owner, the animal control officer shall advertise the impoundment of the estray (livestock) in a newspaper of general circulation in the county at least twice during the next 15 days following impoundment and post a notice of the impoundment of the estray (livestock) on the public notice board of the county sub-courthouse and of the city hall.

(Code 1974, § 3-42)

State law reference–Estrays, V.T.C.A., Agriculture Code § 142.009.

Sec. 10-99 Recovery by owner

The owner of an estray (livestock) may recover possession of the animal at any time before the animal is sold under the terms of this chapter if:

(1) The owner has provided the animal control officer with an affidavit of ownership of the estray (livestock) containing at least the following information:

a. The name and address of the owner.

b. The date the owner discovered that the animal was an estray.

c. The property from which the animal strayed.

d. A description of the animal, including its breed, color, sex, size, and all markings of any kind, and any other identifying characteristics.

(2) The animal control officer has approved the affidavit.

(3) The affidavit had been filed in the estray book.

(4) The owner had paid all estray handling fees to those entitled to receive them.

(5) The owner had executed an affidavit of receipt containing at least the following information:

a. The name and address of the person receiving the estray.

b. Date of receipt of estray.

c. Method of claim to estray (owner, purchaser at sale).

d. If purchased at sale, the amount of gross purchase price.

e. The net proceeds of the sale.

(6) The animal control officer has filed the affidavit of receipt in the estray book.

(Code 1974, § 3-43)

State law reference–Estrays, V.T.C.A., Agriculture Code § 142.006.

Sec. 10-100 Sale of estray (livestock)

(a) If the ownership of an estray (livestock) is not determined within 14 days following the final advertisement required by this chapter, title to the estray (livestock) rests in the city and the animal control officer shall then cause the estray to be sold at a public auction.

(b) Title to the estray (livestock) shall be deemed vested in the city for purpose of passing a good title, free and clear of all claims to the purchaser at the sale.

(c) The purchaser of estray (livestock) at public auction may take possession of the animal upon payment thereof.

(d) The disposition of the proceeds derived from the sale of an estray at public auction will be as follows:

(1) Payment of all handling fees to those entitled to receive them.

(2) Execution of a report of sale of impounded stock.

(3) The net proceeds remaining from the sale of the estray after the handling fees have been paid shall be delivered by the animal control officer to the city treasurer. Such net proceeds shall be subject to claim by the original owner of the estray as provided in this chapter.

(4) If the bids are too low, the animal control officer shall have the right to refuse all bids and arrange for another public auction or sealed bidding procedure.

(Code 1974, § 3-44)

Sec. 10-101 Recovery by owner of sale proceeds

(a) Within 12 months after the sale of an estray (livestock) under the provisions of this chapter, the original owner of the estray (livestock) may recover the net proceeds of the sale that were delivered to the city treasurer if:

(1) The owner has provided the animal control officer with an affidavit of ownership.

(2) The animal control officer has approved the affidavit.

(3) The approved affidavit has been filed in the estray book.

(b) After the expiration of 12 months from the sale of an estray as provided by this chapter, the sale proceeds shall escheat to the city.

(Code 1974, § 3-45)

Sec. 10-102 Use of impounded estray (livestock)

During the period of time an estray (livestock) is impounded the estray may not be used by any person for any purpose.

(Code 1974, § 3-46)

Sec. 10-103 Death or escape of estray (livestock)

If the estray (livestock) dies or escapes while held by the person who impounded it, the person shall report the death or escape to the animal control officer. The report shall be filed in the estray book.

(Code 1974, § 3-47)

Sec. 10-104 Restrictions on size and locations of area for keeping livestock

It shall be unlawful to keep and maintain any mule, donkey, mare, horse, colt, bull, cow, calf, sheep, goat, cattle or other livestock at a distance closer than 100 feet from any building located on adjoining property that is used for human habitation or within an enclosed area of less than one-half acre (21,780 square feet) per animal. All such livestock shall be kept within enclosed areas, and a fence of sufficient strength to contain such animals shall be provided to maintain the 100-foot separation required hereby. All premises upon which such livestock are kept or maintained shall be brought into compliance with the terms of this section.

(Code 1974, § 3-48; Ord. No. 1646, § I, 6-8-04)

Sec. 10-105 Riding or driving livestock on sidewalks or streets

It shall be unlawful for anyone to ride or drive livestock on a public sidewalk or within the public street right-of-way except on the main traveled portion of the street or right-of-way.

(Code 1974, § 3-49)

Cross reference–Streets and sidewalks, ch. 70.

Sec. 10-106 Breeding of livestock

It shall be unlawful for the owner or harborer of livestock to knowingly permit or cause to be permitted the breeding of any such animal within the public view.

(Code 1974, § 3-50)

Secs. 10-107–10-130 Reserved

ARTICLE V. RABIES CONTROL*(19)

Sec. 10-131 Annual immunization of dogs, cats or any other animal required; vaccination tag

(a) It shall be unlawful for any person to own or keep any dog or cat beyond the normal weaning age in the city unless the dog or cat is immunized by rabies vaccination.

(b) A veterinarian shall supply the owner of a vaccinated dog or cat with a rabies vaccination tag which shall have stamped upon it the veterinarian's name and vaccination certificate number. It shall be unlawful for an owner to have, harbor or keep any dog or cat without a current rabies vaccination tag fastened securely to a harness or collar worn about the shoulders or neck of the dog or cat.

(Code 1974, § 3-61)

Sec. 10-132 Rabies vaccination certificate required; display upon request

(a) Every person owning or keeping any dog or cat immunized against rabies, as provided in section 10-131, shall procure a written rabies vaccination certificate, signed by the veterinarian administering the vaccine, and the name and address of the owner.

(b) The animal control officer or any peace officer may request to see rabies vaccination certificates at any time, and the failure of the owner or person in possession of such dog or cat to furnish such certificate of vaccination upon such request shall constitute a violation of this chapter.

(Code 1974, § 3-62(a), (b))

Sec. 10-133 Reporting bites

Every physician or other medical practitioner who treats a person for any animal bite shall within

12 hours thereof report such treatment to an animal control officer giving the name, age, sex and precise location of the bitten person and such other information as the officer may require.

(Code 1974, § 3-63)

State law reference–Report of rabies, V.T.C.A., Health and Safety Code § 826.041.

Sec. 10-134 Reporting suspected rabies

Any veterinarian who clinically diagnoses rabies, or any person who suspects rabies in a dog, cat or other animal, shall immediately report the incident to an animal control officer, stating precisely where such animal may be found, if known. If a known or suspected rabid animal bites or scratches a person or other animal, such incident shall be reported as required in section 10-133.

(Code 1974, § 3-64)

State law reference–Report of rabies, V.T.C.A., Health and Safety Code § 826.041.

Sec. 10-135 Confinement of dogs and cats held for observation

(a) Any dog or cat which has bitten a person shall be observed for a period of ten days from the date of the bite. The procedure and place of observation shall be designated by the animal control officer in compliance with state law. If the dog or cat is not confined on the owner's premises, confinement shall be by impoundment in the city animal shelter, or at any veterinary hospital of the owner's choice. Such confinement shall be at the expense of the owner. The owner of any dog or cat that has been reported to have inflicted a bite on any person shall on demand produce such dog or cat for impoundment, as prescribed in this section. Home quarantine, as defined in this article, may be allowed only in those instances where permitted by state law and agreed to by the animal control officer. Refusal to produce such dog or cat constitutes a violation of this chapter and each day of such refusal shall constitute a separate and individual violation. Any prohibited animal which has bitten a person shall be caught and killed and the brain submitted for rabies examination to a state department of health certified laboratory for rabies diagnosis.

(b) The city may sell and retain the proceeds, keep, grant adoption, or dispose of any animal that the owner or custodian does not take possession of within 72 hours following the final day of the quarantine. The animal shall be subject to removal and disposal at the direction of or by the animal control officer if found to be rabid or if it cannot be maintained in secure quarantine facilities.

(Code 1974, § 3-65)

State law reference–Quarantine, V.T.C.A., Health and Safety Code § 826.042.

Sec. 10-136 Quarantine by owner

Quarantine observation may be made at the owner's home if the following qualifications are met:

(1) Secure facilities are available at such designated place, and approved by the animal control officer.

(2) The dog or cat is contained in an enclosed structure, house or garage for ten days.

(3) If maintained outside, the dog or cat must be behind a fence from which it cannot escape and on a chain from which it cannot break loose, or inside a covered pen or kennel from which it cannot escape.

(4) The dog or cat must be kept away from other animals and people, excepting those in the immediate household.

(5) The animal may not be removed from the place of quarantine without notice and consent of the animal control officer.

(6) The animal or owner were not in violation of this chapter at the time of biting.

(Code 1974, § 3-66)

State law reference–Quarantine, V.T.C.A., Health and Safety Code § 826.042.

Sec. 10-137 Animals which have died of rabies

The head of animals that have died of rabies or are suspected of having died of rabies shall be turned over to an animal control officer or a licensed veterinarian for dispatch to an authorized state department of health certified laboratory for diagnosis.

(Code 1974, § 3-67)

Sec. 10-138 Duty of person knowing of animals exhibiting symptoms of rabies

Whenever any animal is infected with rabies or suspected of being infected with rabies, or has been bitten by an animal known or suspected of being infected with rabies, the owner of the animal, or any person having knowledge thereof, shall immediately notify the animal control officer and furnish information, if known, where the animal may be found, and all particulars of the incident.

(Code 1974, § 3-68)

Secs. 10-139–10-160 Reserved

ARTICLE VI. IMPOUNDMENT*(20)

Sec. 10-161 Duty to impound

Animals owned or harbored in violation of this chapter or any other ordinance or law of the state shall be taken into custody by an animal control officer or other designated official and

impounded under the provisions of this chapter.

(Code 1974, § 3-3)

Sec. 10-162 Disposition of impounded animal

(a) Reasonable effort shall be made by the animal control officer to contact the owner of any animal impounded which is wearing a current vaccination tag; however, final responsibility for location of an impounded animal is that of the owner. Any impounded animal may be redeemed upon payment of the impoundment fee, care and feeding charges, veterinary charges, rabies vaccination charges, and other such costs as set by the animal control officer. If such animal is not redeemed within two days after notification to the owner, where the owner is known, it shall be deemed abandoned and may be placed for adoption, subject to payment of the adoption fee, rabies vaccination charges, and such other cost as set by the animal control officer, or disposed of by means approved by the animal control officer.

(b) Once an animal, where ownership is unknown or the owner cannot be located, has been impounded for a period of 72 hours, and not redeemed by the owner, the animal control officer shall dispose of the animal, place the animal for adoption or sale, or turn the animal over to the department of parks and recreation for display in public zoos. If the animal is placed for sale, the animal control officer shall publish, in a newspaper of general circulation, the description of the animal; the name of the owner, if known; that the sale will be for the purpose of defraying cost of impounding; the location and hour of the sale; and that the sale will be held on the next regular business day of the city after date of publishing of notice of sale. If the animal is not sold at the sale, the animal control officer may otherwise dispose of it or offer it for sale again. An owner paying a vaccination fee shall be given a receipt for the vaccination payment which can be redeemed by his veterinarian by submitting the receipt. Failure to obtain the vaccination within 72 hours of reclaiming the animal shall authorize reimpoundment and/or a citation being written.

(Code 1974, § 3-3(a))

Sec. 10-163 Disposition of impounded animal being held on complaint

If a complaint has been filed in the municipal court of the city against the owner of an impounded animal for a violation of this chapter, the animal shall not be released except on the order of the court, which may also direct the owner to pay any penalties for violation of this chapter, in addition to all impounded fees. Surrender of an animal by the owner thereof to the animal control officer does not relieve or render the owner immune from the decision of the court, nor to the fees and fines which may result from a violation of this chapter.

(Code 1974, § 3-3(b))

Sec. 10-164 Removal of dogs and cats from confinement

It shall be unlawful for any person to remove from any place of confinement or quarantine any dog, cat or other animal which has been confined or quarantined as authorized by this chapter, without the consent of the animal control officer.

(Code 1974, § 3-3(c))

Sec. 10-165 Impoundment by citizen

If any animal is found upon the premises of any person, the owner or occupant of such premises shall have the right to confine such animal in a humane manner pending notification and impoundment by the animal control officer. When so notified, it shall be the duty of the animal control officer to impound such animal as provided in this article.

(Code 1974, § 3-3(d))

Sec. 10-166 Nursing baby animals

Any nursing baby animal impounded without the mother, or where the mother cannot or refuses to provide nutritious milk, may be disposed of by an animal control officer to prevent suffering.

(Code 1974, § 3-20)

Sec. 10-167 Injured or diseased animals

Any impounded animal that appears to be suffering from extreme injury or illness may be disposed of or given to a nonprofit humane organization for the purpose of veterinary medical care, as determined by an animal control officer.

(Code 1974, § 3-21)

Sec. 10-168 Adoption of dogs or cats

The animal control officer shall be authorized to place for adoption dogs or cats impounded by the city under the following conditions:

(1) The animal control officer shall be the sole judge as to whether a cat or dog is healthy enough for adoption, and its health and age adequate for vaccination. However, such decision by the animal control officer shall not constitute a warranty of the health or age of the animal.

(2) All dogs and cats which are adopted through the city animal shelter shall be surgically altered to prevent reproduction in that animal. The fee for spaying or neutering animals will be collected according to the fee schedule (section 30-4). The animal(s) will be transported by city animal shelter personnel to a local veterinarian. The animal to be adopted may be claimed at the local veterinarian office. Should a person wanting to adopt an animal desire to take the adopted animal to a veterinarian of their choice, a refundable deposit will be required (section 30-4). Proof of surgical alteration must be returned to the city animal shelter, at which time a request to refund the deposit will be submitted to the city finance department. Failure to provide proof of surgical alteration will result in loss of the deposit and issuance of a citation. Immature dogs and cats shall be altered by the date designated in the adoption agreement or a citation will be issued.

(3) It shall be the responsibility of the person adopting such animal to provide proof of altering to the animal control officer.

(4) The adoption fee will be as set forth in section 30-4(j). In addition to the adoption fee, if a dog or cat is not currently rabies vaccinated, the adopting person shall be charged for a rabies vaccination as set forth in section 30-4(c) for the issuance of a receipt, which the adopting person shall present to a veterinarian in the county within three days for vaccination of the adopted dog or cat. The veterinarian may present the receipt with a statement verifying the vaccination to the animal control officer for reimbursement of the prepaid fee for administering the rabies vaccination.

(5) If the dog or cat to be adopted is under four months of age, the rabies vaccination will not be required until the animal is at least three months of age but no later than four months of age.

(6) Failure to comply with this section or failure to comply with the terms of the agreements provided for in this article shall give the animal control officer the right to recover and impound the adopted animal in question and to render the vaccination receipt and the adoption contract null and void. Such failure shall also constitute a violation of this chapter.

(7) Confidentiality. It is expressly provided that the personal information about any individual that executes a sterilization and vaccination agreement and/or adoption agreement with the city shall remain confidential and shall not be subject to public disclosure. This personal information shall include the identity of the adopting person or new owner, that person's address, telephone number, driver's license number, or other personally identifying information. Further, such other information as may be declared confidential by state or federal law including the provisions of V.T.C.A., Health and Safety Code ch. 826 as amended, shall not be subject to public disclosure.

(Code 1974, § 3-7; Ord. No. 1098, § I, 10-13-92; Ord. No. 1878, § VIII, 6-8-10)

Cross reference–Fees, § 30-4.
State law reference–Adoption, requirements, V.T.C.A., Health and Safety Code § 828.001 et seq.

CHAPTERS 11 - 13
RESERVED

CHAPTER 14
BUILDINGS AND BUILDING REGULATIONS*(21)

ARTICLE I. BUILDING CODES*(22)

Division I. Generally

Sec. 14-1 Purpose

The articles in this chapter are and shall be deemed an exercise of the administrative and police powers of the city, enacted to protect public safety, comfort, welfare and property, and all provisions of these articles shall be construed for the accomplishment of that purpose.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-2 Definition

As used in this chapter, building official means the officer or other designated authority charged with the administration and enforcement of this chapter and the codes adopted herein, or the building official's duly authorized representative such as deputy building official, building inspector, code enforcement officer and health officer.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-3 Contractor registration

(a) No person, contractor, firm or corporation shall be authorized to secure permits as indicated in subsection (d) of this section without being a valid registered contractor with the city. Homeowners doing work on their homestead are exempt.

(b) A valid registered contractor is a person, firm or corporation, who has paid the prescribed fees, as shown in the city fee schedule (chapter 30), and is not delinquent in any fees or debt to the city and has a current registration on file with the city.

(c) The registration applicant shall file an application in writing on a form furnished by the building inspection department for this purpose. Failure by the applicant to have obtained appropriate licenses shall be cause for rejection of the application.

(d) Permits that pertain to this chapter include the following: Residential, building, plumbing, irrigation, fuel gas, mechanical, electrical, signs, fences, etc.

(e) The registration of a contractor may be denied by the building official or the registration may be revoked if the registration is issued on the basis of incorrect information supplied by the contractor.

(f) The registration may be renewed for the ensuing calendar year by filing a new registration and the payment of a renewal fee. No refund shall be made in the event of the revocation or surrender of any such registration certificate.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-4 Operations for which permit required

It shall be unlawful for any person to commence the construction of any building or the

construction of any alterations or repairs to an existing building or to move any building from outside the corporate limits to within the corporate limits without first having procured a permit authorizing such construction from the Building Official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-5 Application-Filing required

Any person desiring to construct any alterations or repairs to any existing building, or to move any building from outside the corporate limits to within the corporate limits, shall file an application with the building official, such application to contain plans and specifications and estimates of cost of the contemplated construction.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-6 Application-Filing time, with addenda

No permit authorizing the construction of any building or the construction of any alterations or repairs to any existing building, or the moving of any building from outside the corporate limits to within the corporate limits, shall be issued until the application, including the plans and specifications and estimates of cost provided for herein, shall have been on file in the office of the building official for five full business days.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-7 Plat approval prerequisite to issuance

No permit authorizing the construction of any building within the city, except auxiliary buildings to existing buildings, or authorizing the moving of any building from outside the corporate limits to within the corporate limits, shall be issued unless a plat showing the subdivision of the area where such construction is to be proposed has been approved by the city council.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-8 Authority to demand uncovering of work concealed prior to inspection

The building official or his duly appointed representative shall have the authority to demand contractors to open such work that in any manner conceals residential, building, plumbing, mechanical, fuel gas, electrical, energy or fire code items that has been closed without his/her knowledge or permission, and in no case shall the inspector issue clearance until he/she is satisfied that the work is in accordance with the provisions of all articles. The building official or his representative shall have the right to refuse to issue a clearance on any item that is concealed in such a manner that they cannot fully satisfy themselves that it has been done in accordance with all articles.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-9 Approval of inspector required before reconnecting service; exception

When service is disconnected to any building used for commercial or mercantile purposes, theaters, gasoline stations and garages whether for fire or catastrophe reasons or other, approval must be obtained before reconnecting to the appropriate utilities. Provided, however, where service is terminated for non-payment of bill, it shall not be necessary to obtain city approval before reconnecting.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-10 Penalty for violations

Any person violating the terms and provisions of this chapter shall be deemed guilty of a misdemeanor and such person shall be fined not more than the maximum provided in section 1-12 of this Code for fire safety and public health and sanitation provision violations for each offense. Every violation and each and every day's failure or refusal to comply with these provisions will constitute a separate offense, and in case of willful or continued violation by any person or his agents, employees servants or officers, the city shall have the power to revoke and repeal any license under which the person may be acting, and revoke all permits, privileges and franchises granted to the person.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-11 Appeals board

There is a city variance and appeals board that allows for the opportunity to appeal.

See section 84-27 (ZBA board) of this Code.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-12 Authority to establish policy standards

The building official shall have authority to establish certain policy guidelines or standards regulating various provisions of the residential, building, plumbing, fuel gas, mechanical, electrical, property maintenance, abatement of dangerous buildings and health codes adopted in this chapter that are subject to the standardization of construction or health methods and/or local interpretation. The building official shall have the authority to outline conditions and provide for code consistency to rules, regulations, or laws with county, state or federal agencies.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-13–14-20 Reserved

ARTICLE II. INTERNATIONAL RESIDENTIAL CODE AMENDMENTS/ADMINISTRATION*(23)

Sec. 14-21 Adoption; International Residential Code

The International Residential Code, 2009 Edition, as published by the International Code

Council, including Appendix G, Section AG 101- AG 107, Appendix J, and Appendix O, is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-22 Administration and enforcement of residential code

The residential code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-23 Scope of requirements

(a) For the purpose of this code, every building or structure within aircraft exposure zone "B" as defined by section 74-114 of the City of Euless Code of Ordinances shall be subject to the following noise attenuation requirements.

(b) Noise level reduction standards for certain uses. The minimum outdoor-to-indoor noise level reduction for certain building uses within zone "B" shall be 25 decibels (A-weighted) as measured from the center of each room.

Building Use		**Minimum Decibel Re from Outdoors to Ir**
Residential:	Residential within each unit including transient lodgings	25 dba
Public use:	Schools, hospitals, churches, nursing home	25 dba

(c) Certification of plans prior to issuance of building permits. No building permit for any listed building or structure shall be issued unless all plans and specifications accompanying the application for the permit are certified by a registered professional architect or engineer of the State of Texas as meeting the noise level reduction standards required. The following certification shall appear on every sheet of the building plans.

> (Name), a registered professional engineer or architect of the State of Texas, has examined the plans and specification and does hereby certify that when the structure is constructed in accordance with these plans and with quality workmanship that the structure will provide a shell isolation rating (S.I.R.) of not less than 25 points.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-24 Excavation and grading guidelines for development

Grading guidelines for development of lots and tracts, to maintain protection of adjoining properties and alleviate erosion problems encountered by improper drainage, shall be as follows:

(a) Excavations or fills made for purpose of development of a lot or tract shall grade permanent slopes no steeper than five feet horizontal to one foot vertical.

(b) Deviation from excavation or fill limitations for slopes shall be permitted only upon the presentation of a soil investigation report acceptable to the building official.

(c) Retaining walls used to comply with the foregoing requirement shall be constructed in accordance with accepted engineering practices and shall be installed in a good workman like manner satisfactory to the building official.

(d) Retaining walls four feet and greater in height from finished grade to the top of wall shall require a permit prior to construction. The contractor must make application to the building department and submit a detailed engineered drawing and calculations including adequate drainage provisions through the wall. All drawings must bear the legal descriptions of property, all boundaries, easements and rights-of-way, as well as the engineer's seal and signature. All retaining walls one foot or taller shall be constructed of approved masonry materials only and provide for adequate drainage through the wall. (This is not intended to prohibit the use of non-masonry materials for landscaping.)

(e) Grading of slopes shall be done in such a manner as to ensure proper drainage. Where practical, 80 percent of the lot or tract shall be graded to the fronting street gutter. Drainage on the portion of a lot or tract below curb level shall not drain across more than one lot or tract before entering an approved drainage way. This drainage shall be accomplished in such a manner as not to cause erosion or damage to any property.

(f) Whenever the building official determines that any existing excavation or embankment or fill on private property has become a hazard to life and limb or endangers property or adversely affects the safety, use or stability of a public way or drainage channel, the owner of the property upon which the excavation or fill is located, or other person or agents in control of said property, upon receipt of notice in writing from the building official, shall within the period specified therein repair or eliminate the hazard and be in conformance with the requirements of this Code.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-25 Amendments

The International Residential Code, 2009 edition, adopted in section 14-21 of this article, shall be amended as follows:

Section R101.1, Title: change to read as follows:

The provisions shall be known as the Residential Code for One and Two-Family Dwellings of the City of Euless and shall be cited as such and will be referred to herein as "this code".

Section R102.4 Referenced codes and standards: change to read as follows:

The codes, when specifically adopted, and standards referenced in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference made to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

Where differences occur between provisions of this code and referenced codes and standards, the provisions of this code shall apply.

Exception: Where enforcement...{remainder of exception unchanged.}....

Section R105.2, Building item #1: change to read as follows:

1. One-story detached accessory structures provided the floor area is less than 120 square feet.

    1.1 Masonry material is required for all components of a retaining wall 1 foot or taller. Retaining walls 4 foot or taller shall have engineered drawings submitted when applying for permit. All walls shall have drainage provisions through the wall. All drawings must bear the legal descriptions of property, all boundaries, easements and rights-of-way, as well as the engineer's seal and signature.

Section R105.5, Expiration: change to read as follows:

Work requiring a permit shall not be granted an extension or be renewed beyond a 24 month period from the time the permit was originally issued. Any incomplete work for which a permit has expired shall be caused by the Building Official to be demolished in accordance with Article XII - Abatement of Dangerous Buildings.

Section R108.2, Schedule of permit fees: changed to add a second sentence to read as follows:

See approved fee schedule (chapter 30)

Section R108.7 add to read as follows:

108.7 Re-inspection fee. A fee as established by city council may be charged when:

1. The inspection called for is not ready when the inspector arrives;

2. No building address or permit card is clearly posted;

3. Approved plans are not on the jobsite available for inspection when called;

4. The jobsite is red-tagged twice for the same item;

5. The original red tag has been removed from the jobsite and/or,

6. Violations exist on the property including failure to maintain erosion control, trash control or tree protection.

108.7.1 Any re-inspection fees assessed shall be paid before any more inspections are made on that jobsite.

Section R110, Certificate of Occupancy (R110.1 through R110.5): is deleted.

Sections R112.2.1 & R112.2.2: are deleted.

Section R202, Definitions: the definitions of "Townhouse", "Retaining Wall" and "Municipality" are changed to read as follows:

RETAINING WALL. A retaining wall is a structure built in order to hold back earth which would otherwise move downwards. The purpose of a retaining wall is to stabilize slopes and provide useful areas at different elevations

TOWNHOUSE. A single-family dwelling unit constructed in a group of three or more attached units separated by property lines in which each unit extends from foundation to roof and with a yard or public way on at least two sides.

Wherever the word "municipality" is used in this code, it shall mean the City of Euless.

Table R301.2(1), Climatic and Geographic Design Criteria: change to read as follows:

Ground Snow Load	**Wind Design Speed[d] (mph)**	**Seismic Design Category[h]**
5 lb/ft^2	90 (3-sec-gust)/76 fastest mile	A

Subject to Damage From		
Weathering[a]	**Frost line depth**	**Termite[c]**
moderate	6"	very heavy

Winter Design Temp[e]	**Ice Shield Under-Layment Required[h]**	**Flood Hazards[g]**	**Air Freezing Index**	**Mean Annual Temp[j]**
22°F	No	local code	69°F	64.9°F

Section R302.1, Exterior walls: change exception #1 and add exception #6 to read as follows:

Exceptions:

1. Detached garages accessory to a dwelling located within 3 feet of a lot line

may have roof projections not exceeding 12 inches.

6. Open metal carport structures may be constructed within three feet of the property line without fire-resistive or opening protection when the location of such is approved as required by other adopted ordinances.

Section R302.2, Townhouses: change Exception to read as follows:

Exception: A common two-hour fire-resistance-rated wall assembly, or one-hour fire-resistance-rated wall assembly when equipped with a sprinkler system..... {Remainder of section unchanged}

Section 302.2.4, Structural Independence: change Exception 5 to read as follows:

Exception: (previous exceptions unchanged)

5. Townhouses separated by a common two-hour fire-resistance-rated wall, or one-hour fire resistance rated wall when equipped with an automatic sprinkler system, (remainder unchanged).

Section R302.3, Two-family dwellings: add Exception 3 to read as follows:

Exceptions:

1. (existing text unchanged)

2. (existing text unchanged)

3. Two-family dwelling units that are also divided by a property line through the structure shall be separated as required for townhouses.

Section 302.5.2, Duct penetration: change to read as follows:

R302.5.2 Duct penetration. Ducts in the garage....(text unchanged) ... and shall have no openings into the garage and shall be protected as required by Section 302.11, item 4.

Section 302.5.3, Other penetrations: change to read as follows:

R302.5.3 Other penetrations. Penetrations through the separation required in Section R302.6 shall be protected as required by Section R302.11, item 4.

Section R302.7, Under-stair protection: change to read as follows:

R302.7 Under stair protection. All enclosed space under stairs shall have walls, under stair surface and any soffits protected on the enclosed side with 5/8-inch (15.8 mm) fire-rated gypsum board or one-hour fire-resistive construction.

Section R303.3, Bathrooms: change Exception to read as follows:

Exception: The glazed areas shall not be required where artificial light and mechanical

ventilation system, complying with the one of the following are provided.

1. The minimum ventilation rates shall be 50 cfm (24l/s) for intermittent ventilation or 20 cfm (10L/s) for continuous ventilation. Ventilation air from the space shall be exhausted directly to the outside. (through the roof)

2. Bathrooms that contain only a water closet, a lavatory, or water closet and a lavatory may be ventilated with an approved mechanical re-circulating fan or similar designed to remove odors from the air.

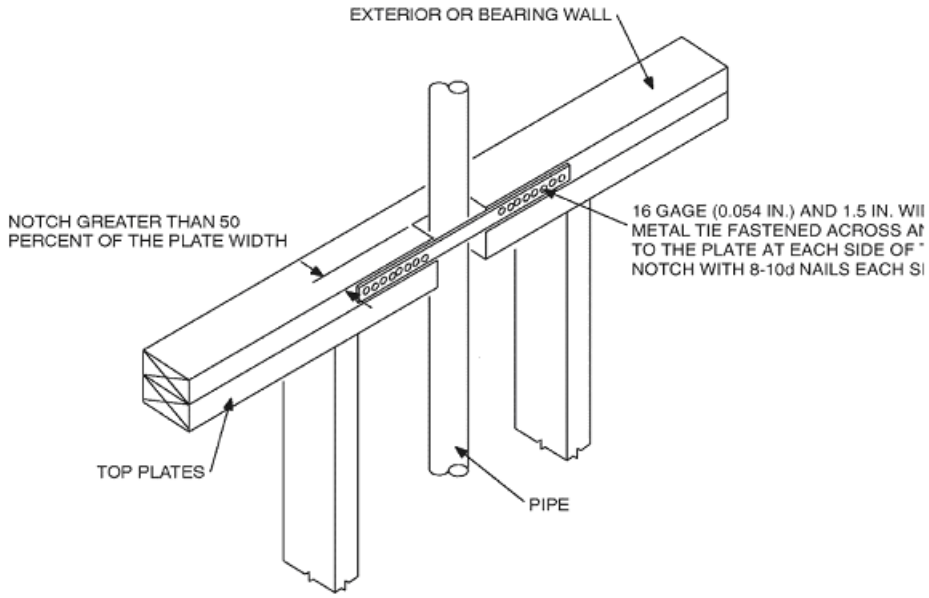
Section R309.2, Carports: delete exception.

Section R315.2, Where required in existing dwellings: is deleted:

Section R602.6.1, Drilling and notching of top plate: change to read as follows and delete exception:

R602.6.1 Drilling and notching of top plate. When piping or ductwork is placed in or partly in an exterior wall or interior wall, necessitating cutting, drilling or notching of the top plate by more than 40 percent of its width, a galvanized metal tie not less than 0.054 inch thick (1.37 mm) (16 Ga) and 5 inches (127 mm) wide shall be fastened across and to the plate at each side of the opening with not less than eight 10d nails (0.148 inch diameter) having a minimum length of 1 1/2 inches (38 mm) tie must extend a minimum of 6 inches past the opening. See Figure R602.6.1.

FIGURE R602.6.1 TOP PLATE FRAMING TO ACCOMMODATE PIPING



For SI: 1 inch = 25.4 mm.

Section R602.6.1, Plumbing in walls and top plates: add to read as follows:

Section R602.6.1. Plumbing in walls and top plates. Any plumbing in a stud wall and top plate 2" and larger shall be installed in a 2" x 6" stud wall and top plate.

Section R703.7.4.1, Size and spacing: add a second paragraph to read as follows:

In stud framed exterior walls, all ties shall be anchored to studs as follows:

1. When studs 16 in (407 mm) o.c., stud ties shall be spaced no further apart than 24 in (737 mm) vertically starting approximately 12 in (381 mm) from the foundation.

2. When ties are placed on studs 24 in (610 mm) o.c., stud ties shall be spaced no further apart than 16 in (483 mm) vertically starting approximately 8 in (254 mm) from the foundation.

Section R806.3, Vent and insulation clearance: change sentence to read as follows:

Where eave or cornice vents are installed, they shall be a minimum of 3 feet from all window and door openings.

Section R807.2, Attic access: add to read as follows:

R807.2 Attic access.

1. Decking materials shall be of 1/2" min. plywood or 5/8" min. wafer board.

2. A permanent ladder and/or stairways for access and removal of equipment shall be provided.

Section R902.1, Minimum Roof Class: change and add exception #3 to read as follows:

R902.1 Minimum Roof Class. All roof coverings shall be a minimum class C. All individual replacement shingles shall be a minimum Class C. Roofing covering materials. Roofs shall be covered with materials set forth in Sections R904 and R905. Class A, B, or C roofing shall be installed.

Exceptions:

1. (text unchanged)

2. (text unchanged)

3. Non-classified roof coverings shall be permitted on one-story detached accessory structures used as tool and storage sheds, playhouses and similar uses, provided floor area does not exceed 120 square feet.

Section R902.3, Minimum Roof Class: add to read as follows:

R902.3 Minimum Roof Class. All roof coverings shall be a minimum class C. All individual replacement shingles shall be a minimum Class C.

Sections R905.7 through 905.8.9 are deleted.

Section R907.1, General: add a sentence to read as follows:

R907.1 General. Materials and methods of application used for recovering or replacing an existing roof covering shall comply with the requirements of Chapter 9. All individual replacement shingles shall comply with Section R902.1. (exception unchanged)

Section N1101.2, Compliance: add Section N1101.2.2 to read as follows:

N1101.2. Compliance software tools. Software tools used to demonstrate Energy code compliance utilizing the UA alternative approach shall be approved by the Building Official. The PNL program REScheck [tm] is not acceptable for residential compliance.

Exception: When REScheck[tm] UA "Trade-off" compliance approach or the UA Alternate compliance approach method is used, the compliance certificate must demonstrate that the maximum glazed area does not exceed 15% of the conditioned floor area.

Section N1102.1, Insulation and fenestration criteria: change to read as follows:

N1102.1 Insulation and fenestration criteria. The building thermal envelope shall meet the requirements of Tables N1102.1 and 1102.1.2 are limited to a maximum glazing area of 15% window area to floor area ratio.

Section N1102.2.12, Insulation installed in walls: add to read as follows:

N1102.2.12 Insulation installed in walls. Insulation batts installed in walls shall be totally surrounded by an enclosure on all sides consisting of framing lumber, gypsum, sheathing, wood structural panel sheathing or other equivalent material approved by the Building Official.

Section M1305.1.3, Appliances in attics: change to read as follows:

M1305.1.3 Appliances in attics. Attics containing appliances requiring access shall be provided... {bulk of paragraph unchanged}...sides of the appliance where access is required. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), or larger where such dimensions are not large enough to allow removal of the largest appliance. As a minimum, access to the attic space shall be provided by one of the following:

1. A permanent stair.

2. A pull down stair with a minimum 300 lbs (136 kg) capacity.

3. An access door from an upper floor level.

4. Access Panel may be used in lieu of items 1, 2, and 3 with prior approval of the Building Official due to building conditions.

Exception:

1. The passageway and level service space are not required where the appliance can be serviced and removed through the required opening.

2. Where the passageway is unobstructed...(remaining text unchanged).

Section M1305.1.3.1, Electrical requirements: change to read as follows:

M1305.1.3.1 Electrical requirements. A luminaire controlled by a switch located at the required passage-way opening and a receptacle outlet shall be installed at or near the appliance location in accordance with Chapter 39. Low voltage wiring of 50 Volts or less shall be installed in a manner to prevent physical damage.

Section M1305.1.4.1, Ground clearance: change to read as follows:

M1305.1.4.1 Ground clearance. Appliances supported from the ground shall be level and firmly supported on a concrete slab or other approved material extending above the adjoining ground a minimum of 3 inches (76 mm). Appliances suspended from the floor shall have a clearance of not less than 6 inches (152 mm) above the ground.

Section M1305.1.4.3, Electrical requirements: change to read as follows:

M1305.1.4.3 Electrical requirements. A luminaire controlled by a switch located at the required passage-way opening and a receptacle outlet shall be installed at or near the appliance location in accordance with Chapter 39. Low voltage wiring of 50 Volts or less shall be installed in a manner to prevent physical damage.

Section M1307.3.1, Protection from impact: is deleted.

Section M1411.3, Condensate disposal: change to read as follows:

M1411.3 Condensate disposal. Condensate from all cooling coils or evaporators shall be conveyed from the drain pan outlet to a sanitary sewer through a trap, by means of a direct or indirect drain. (remaining text unchanged)

Section M1411.3.1, Auxiliary and secondary drain systems: change items 3 and 4 to read as follows:

M1411.3.1 Auxiliary and secondary drain systems. (bulk of paragraph unchanged)

1. (text unchanged)

2. (text unchanged)

3. An auxiliary drain pan...(bulk unchanged)... with item 1 of this section. A water

level detection/shut off device may be installed.

4. A water level detection device (bulk of text unchanged)...overflow rim of such pan. A water level detection/shut off device may be installed with prior approval of the Building Official.

Section M1411.3.1.1, Water-level monitoring devices: change to read as follows:

M1411.3.1.1 Water-level monitoring devices. On down-flow units ... (bulk of text unchanged) ...be installed only with prior approval of the Building Official.

Section M1501.2, Material and size: add to read as follows:

Section M1501.2 Material and size. Exhaust ducts shall have a smooth interior finish and shall be constructed of metal a minimum 0.016-inch (0.4 mm) thick. The exhaust duct size shall be 4 inches (102 mm) nominal in diameter. Duct size shall not be reduced along its developed length of at termination.

Section M1501.3, Specified length: add to read as follows:

M1501.3 Specified length. The maximum length of the exhaust duct shall be 35 feet (10668 mm) from the connection to the transition duct from the appliance to the outlet terminal. Where fittings are used, the maximum length of the exhaust duct shall be reduced in accordance with Table M1502.4.4.1.

Section M1601.4.3 Support: change to read as follows:

Metal ducts...(text unchanged)...or other approved means. Nonmetallic ducts shall be supported by 1-inch wide 18-gage solid metal straps with 6" metal saddles at intervals not exceeding 10 feet or in accordance with the manufacturer's installation instructions.

Section M2005.2, Prohibited locations: change to read as follows:

M2005.2 Prohibited locations. Fuel-fired water heaters shall not be installed in a room used as a storage closet. Water heaters located in a bedroom or bathroom shall be installed in a sealed enclosure so that combustion air will not be taken from the living space. Access to such enclosure may be from the bedroom or bathroom when through a solid door, weather-stripped in accordance with the exterior door air leakage requirements of the International Energy Conservation Code and equipped with an approved self-closing device. Installation of direct-vent water heaters within an enclosure is not required.

Section G2408.3 (305.5), Private garages: is deleted.

Section G2412.5 (401.5), Indemnification: add a second paragraph to read as follows:

Both ends of each section of medium pressure gas piping shall identify its operating gas pressure with an approved tag. The tags are to be composed of aluminum or stainless steel and the following wording shall be stamped into the tag:

"WARNING
1/2 to 5 psi gas pressure
Do Not Remove"

Section G2413.3 (402.3), Sizing: add an exception to read as follows:

Exception: Corrugated stainless steel tubing (CSST) shall be a minimum of 1/2". (18 EDH).

Section G2415.9.1 (404.9.1), Prohibited use: is deleted.

Section G2415.10 (404.10), Minimum burial depth: change to read as follows:

G2415.10 (404.10) Minimum burial depth. Underground piping systems shall be installed a minimum depth of 18 inches (457 mm) below grade, except as provided for in Section G2415.10.1.

Section G2417.1 (406.1), General: change to read as follows:

G2417.1 (406.1) General. Prior to acceptance and initial operation, all piping installations shall be inspected and pressure tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this code. The permit holder shall make the applicable tests prescribed in Sections 2417.1.1 through 2417.7.5 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the piping system is ready for testing. The equipment, material, power and labor necessary for the inspections and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests.

Section G2417.4 (406.4), Test pressure measurement: change to read as follows:

G2417.4 (406.4) Test pressure measurement. Test pressure shall be measured with a manometer or with a pressure-measuring device designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. Gauges used to measure...{remainder unchanged}

Section G2417.4.1 (406.4.1), Test pressure: change to read as follows:

G2417.4.1 (406.4.1) Test pressure. The test pressure to be used shall be not less than 3 psig (20 kPa gauge), or at the discretion of the Building Official, the piping and valves may be tested at a pressure of at least six (6) inches (152 mm) of mercury, measured with a manometer or slope gauge. For tests requiring 3 psig gauges shall utilize a dial with a minimum diaphragm diameter of three and one half inches (3-1/2"), a set hand, 1/10 pound incrementation and pressure range not to exceed 6 psi for tests requiring a pressure of 3 psig. For tests requiring a pressure of 10 psig, diaphragm gauges shall utilize a dial with a minimum diameter of three and one-half inches (3- 1/2") a set hand, a minimum of 2/10 pound incrementation and a pressure range not to exceed 20 psi.

For welded piping, and for piping carrying gas pressures in excess of fourteen (14) inches of water column pressure (4.48 kPa) (1/2 psi) and less than 200 inches of water column pressure (52.2 kPa) (7.5 psi), the test pressure shall not be less than ten (10) pounds per square inch (69.6 kPa). For piping carrying gas at a pressure that exceeds 200 inch of water column (52.2 kPa) (7.5 psi), the test pressure shall be not less that one and one-half times the proposed maximum working pressure.

Section G2417.4.2 (406.4.2), Test duration: change to read as follows:

G2417.4.2 (406.4.2) Test duration. Test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than fifteen (15) minutes. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa), the test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than thirty (30) minutes.

Section G2420.1.4, Valves in CSST installations: add to read as follows:

G2420.1.4 Valves in CSST installations. Shutoff valves installed with corrugated stainless steel (CSST) piping systems shall be supported with an approved termination fitting, or equivalent support, suitable for the size of the valves, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration but in no case greater than 12-inches from the center of the valve. Supports shall be installed so as not to interfere with the free expansion and contraction of the system's piping, fittings, and valves between anchors. All valves and supports shall be designed and installed so they will not be disengaged by movement of the supporting piping.

Section G2420.5.1 (409.5.1), Located within same room: change to read as follows:

G2420.5.1 (409.5.1) Located within the same room. The shutoff valve....(text unchanged)...in accordance with the appliance manufacturer's instructions. A secondary shutoff valve must be installed within 3 feet (914 mm) of the firebox if appliance shutoff is located in the firebox.

Section G2421.1 (410.1), Pressure regulators: change to read as follows:

G2421.1 (410.1) Pressure regulators. A line pressure regulator shall be...(bulk of paragraph unchanged)... approved for outdoor installation.

Access to regulators shall comply with the requirements for access to appliances as specified in Section M1305.

Exception: A passageway or level service space is not required when the regulator is capable of being serviced and removed through the required attic opening.

Section G2439.5 (614.6) Domestic clothes dryer exhaust ducts: change to read as follows:

G2439.5 (614.6) Domestic clothes dryer exhaust ducts. Exhaust ducts for domestic clothes dryers shall conform to the requirements of Sections G2439.5.1 through

G2439.5.7. The size of duct shall not be reduced along its developed length nor at the point of termination.

Section G2445.2 (621.2), Prohibited use: change to read as follows:

G2445.2 (621.2) Prohibited use. One or more unvented room heaters shall not be used as the sole source of comfort heating in a dwelling unit.

Exception: Existing approved unvented heaters may continue to be used in dwelling units, in accordance with the code provisions in effect when installed, when approved by the Building Official unless an unsafe condition is determined to exist as described in International Fuel Gas Code Section 108.7 of the Fuel Gas Code.

Section G2448.1.1 (624.1.1) Installation requirements: change to read as follows:

G2448.1.1 (624.1.1) Installation requirements. The requirements for water heaters relative to access, sizing, relief valves, drain pans and scald protection shall be in accordance with this code.

Section P2503.6, Shower liner test: change to read as follows:

P2503.6 Shower liner test. Where shower floors and receptors are made watertight by the application of materials required by section P2709.2, the completed liner installation shall be tested. The pipe from the shower drain shall be plugged watertight for the test. Water shall be held in the section under test for a period of 15 minutes. The system shall prove leak free by visual inspection.

Section P2603.6.1, Sewer depth: change to read as follows:

P2603.6.1 Sewer depth. Building sewers shall be a minimum of 12 inches (304 mm) below grade.

Section P2608.5.1: add to read as follows:

Water service pipe shall be seamless copper type L or pex piping.

Water distribution pipe shall be copper or copper alloy, or pex piping.

Section P2709.2, Lining required: add an Exception to read as follows:

Exception: Showers designed to comply with ICC/ANSI A117.1.

Section P2718.1, Waste connection: add a second sentence to read as follows:

All clothes washing machines on a second floor or above shall have a pan.

Section P2801.4, Prohibited locations: add second sentence to read as follows:

Water heaters shall not be installed in attics.

Section P2801.6, Water heaters installed in garages: add an exception to read as follows:

> Exception: Elevation of the ignition source is not required for water heaters that are listed as flammable vapor resistant and for installation without elevation.

Section P2902.5.3, Lawn irrigation systems: change to read as follows:

> P2902.5.3 Lawn Irrigation Systems. The potable water supply system to lawn irrigation systems shall be protected against backflow by a pressure type vacuum breaker, a double-check assembly or a reduced pressure principle backflow preventer . . . {remainder of section unchanged}. All irrigation systems shall have rain and freeze protection installed.
>
> > P2902.5.3.1 Lawn Irrigation systems rules and law compliance with State Law and TCEQ requirements.
> >
> > Landscape irrigation rules promulgated by the Texas Commission on Environmental Quality and contained in Chapter 344, Subchapters E and F, sections 344.50–344.65, Texas Administrative Code, are hereby adopted by reference as the landscape irrigation rules of the city.

Table P2905.4, Water Service Pipe: shall be either copper or pex only.

Table P2905.5 Water Distribution Pipe: shall be either copper or pex only.

Section P3005.2.6, Upper terminal: delete current section and change to read as follows:

> P3005.2.6 Upper terminal. Each horizontal drain shall be provided with a cleanout at its upper terminal.
>
> > Exception: Cleanouts may be omitted on a horizontal drain less than five (5) feet (1524 mm) in length unless such line is serving sinks or urinals.

Section P3111, Combination Waste and Vent System: is deleted.

Section P3112.2, Vent connection: is deleted and replaced with the following:

> P3112.2 Installation. Traps for island sinks and similar equipment shall be roughed in above the floor and may be vented by extending the vent as high as possible, but not less than the drain board height and then returning it downward and connecting it to the horizontal sink drain immediately downstream from the vertical fixture drain. The return vent shall be connected to the horizontal drain through a wye-branch fitting and shall, in addition, be provided with a foot vent taken off the vertical fixture vent by means of a wye-branch immediately below the floor and extending to the nearest partition and then through the roof to the open air or may be connected to other vents at a point not less than six (6) inches (152 mm) above the flood level rim of the fixtures served. Drainage fittings shall be used on all parts of the vent below the floor level and a minimum slope of one-quarter (1/4) inch per foot (20.9 mm/m) back to the drain shall be maintained. The return bend used under the drain board shall be a one (1) piece fitting or an assembly of a

forty-five (45) degree (0.79 radius), a ninety (90) degree (1.6 radius) and a forty-five (45) degree (0.79 radius) elbow in the order named. Pipe sizing shall be as elsewhere required in this Code. The island sink drain, upstream of the return vent, shall serve no other fixtures. An accessible cleanout shall be installed in the vertical portion of the foot vent.

Section P 3114, Air Admittance Valves: is deleted.

Chapters 33 through 42: are deleted and replaced with the electrical code as adopted.

Appendix G Section 105.2, Outdoor swimming pool: change items 1, 2 and 8 to read as follows and delete items 4, 5, 6 and 7:

1. Barrier shall be at least 72" inches measured on the side of the barrier which faces away from the swimming pool.

2. Barrier shall be constructed of wood with steel post. Spacing between fence slats shall not exceed 4 inches. Other materials may be used as approved by the Building Official.

8. Access gates shall be equipped to accommodate a locking device. Pedestrian...(remainder of text unchanged)..... shall comply with the following.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-26–14-40 Reserved

ARTICLE III. INTERNATIONAL BUILDING CODE AMENDMENTS/ADMINISTRATION*(24)

Sec. 14-41 Adoption; International Building Code

The International Building Code, 2009 edition, as published by the International Code Council is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-42 Administration and enforcement of building code

The building code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-43 Scope of requirements

(a) For the purpose of this code, every building or structure within aircraft exposure zone “B” as defined by section 74-114 of the City of Euless Code of Ordinances shall be subject to the following noise attenuation requirements.

(b) Noise level reduction standards for certain uses. The minimum outdoor-to-indoor noise level reduction for certain building uses within zone “B” shall be 25 decibels (A-weighted) as measured from the center of each room.

Building Use		**Minimum Decibel from Outdoors t**
Residential:	Residential within each unit including transient lodgings	25 dba
Public use:	Schools, hospitals, churches, nursing home	25 dba

(c) Certification of plans prior to issuance of building permits. No building permit for any building or structure designated shall be issued unless all plans and specifications accompanying the application for the permit are certified by a registered professional architect or engineer of the State of Texas as meeting the noise level reduction standards required. The following certification shall appear on every sheet of the building plans.

> (Name), a registered professional engineer or architect of the State of Texas, has examined the plans and specifications and does hereby certify that when the structure is constructed in accordance with these plans and with quality workmanship that the structure will provide a shell isolation rating (S.I.R.) of not less than 25 points.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-44 Amendments

The International Building Code, 2009 edition, adopted in section 14-41 of this article, shall be amended as follows:

Section 101.4, Referenced codes: change to read as follows:

> 101.4 Referenced codes. The other codes listed in Sections 101.4.1 through 101.4.6 and referenced elsewhere in this code, when specifically adopted, shall be considered part of the requirements of this code to the prescribed extent of each such reference. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

Section 101.4.7, Electrical: add to read as follows:

> 101.4.7 Electrical. The provisions of the Electrical Code shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.

Sections 103 and 103.1: amend to read as follows:

SECTION 103
OFFICIAL BUILDING DEPARTMENT

103.1 Creation of enforcement agency. The Department of Building Safety for The City of Euless is hereby created and the Official in charge shall be known as the Building Official.

Section 105.5.1, Permit extensions: add to read as follows

105.5.1 Permit extensions. Work requiring a permit shall not be granted an extension or be renewed beyond a 24 month period from the time the permit was originally issued. Any incomplete work for which a permit has expired shall be caused by the Building Official to be demolished in accordance with ARTICLE XII - abatement of dangerous buildings.

Section 109.2.1, Plan review fees: add to read as follows:

109.2.1 Plan review fees: When submittal documents are required by section 107.1, a plan review fee shall be paid at the time of submitting the submittal documents for plan review. Said plan review fee shall be as set forth in section 30-13 of the Code of Ordinances of the City of Euless.

The Plan review fees are in addition to the permit fees. When submittal documents are incomplete or changed so as to require additional plan review or when the project involves submittal items as defined in section 106.3.4.2, an additional plan review fee shall be charged at the rate as set forth in section 30-13.

Section 109.2, Schedule of permit fees: change to add a second sentence to read as follows:

See approved fee schedule (Euless Code of Ordinances Chapter 30)

Section 109.7, Re-Inspection fee: add to read as follows:

109.7 Re-Inspection fee. A fee is established by city council may be charged when:

1. The inspection called for is not ready when the inspector arrives.
2. No building address or permit card is clearly posted.
3. City approved plans are not on the jobsite available to the inspector.
4. The building is locked or work otherwise not available for inspection when called.
5. The jobsite is red-tagged twice for the same item.
6. The original red tag has been removed from the jobsite; and/or
7. Violations exist on the property including failure to maintain erosion control, trash control or tree protection,

Any re-inspection fees assessed shall be paid before any more inspections are made on

that jobsite.

Section 109.8, Work without permit; 109.8.1, Investigation; 109.8.2, Fee: to read as follows:

109.8 Work without permit.

109.8.1 Investigation. Whenever work for which a permit is required by this code has been commenced without first obtaining a permit, a special investigation shall be made before a permit may be issued for such work.

109.8.2 Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is subsequently issued. The investigation fee shall be equal to the amount of the permit fee required by this code or the city fee schedule Chapter 30 as applicable, the payment of such investigation fee shall not exempt the applicant from compliance with all other provisions of either this code or the technical codes nor from the penalty described by law.

Section 110.3.5, Lath and gypsum board inspection: is deleted.

Section 116.5.1, Damage or Renovations to Existing Structures: add to read as follows:

116.5.1 Damage or Renovations to Existing Structures. When a structure is renovated or is damaged to 51% of the gross floor area or if the value of the damage or renovation exceeds 51% of the value of the structure at the time of damage or renovation all requirements of this code shall be complied with in any such repair, reconstruction, or renovation.

Section 202; Definitions: amend definition of Ambulatory Health Care Facility to read as follows:

Ambulatory Health Care Facility. Buildings or portions thereof used to provide medical, surgical, psychiatric, nursing or similar care on a less than 24-hour basis to individuals who are rendered incapable of self-preservation. This group may include but not be limited to the following:

-Dialysis centers
-Sedation dentistry
-Surgery centers
-Colonic centers
-Psychiatric centers

Option B

Section 202, Definitions: amend definition to read as follows:

HIGH-RISE BUILDING. A building having any floor used for human occupancy located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access.

Section 202; Definitions: add definition of Equipment Room to read as follows:

EQUIPMENT ROOM. Equipment room is a room in which is contained mechanical, heating equipment, electrical equipment and distribution centers, boilers, central heating plant, hot water supply boiler, or any other equipment essential to the operation of the building or preservation of the occupants.

Section 304.1, Business Group B: change to add the following to the list of occupancies:

Fire stations
Police stations with detention facilities for 5 or less

Section 307.1, High-hazard Group H: change Exception 4 to read as follows:

4. Cleaning establishments... (text unchanged) ... with Section 712, or both. See also IFC chapter 12, Dry Cleaning Plant provisions.

Section 310.1, Residential Group R: change second paragraph under R-3 to read as follows:

Adult care and child care facilities with 5 or fewer unrelated persons that are within a single-family home are permitted to comply with the International Residential Code.

Section 403.1, Applicability: change Exception 3 to read as follows:

3. Open air portions of buildings with a Group A-5 occupancy in accordance with Section 303.1

Section 403.3, Automatic sprinkler system: Exception 2 is deleted

Section 404.1.1, Definition: change definition of “Atrium” to read as follows:

ATRIUM. An opening connecting three or more stories...{Balance remains unchanged}

Section 404.5, Smoke control: Exception is deleted.

Section 406.1.2, Area increase: item #3 is added to read as follows:

3. A separation is not required between a Group R-2 and U carport provided that the carport is entirely open on all sides and that the distance between the two is at least 10 feet (3048 mm).

Section 406.6.1, General: add a second paragraph to read as follows:

This occupancy shall include garages involved in minor repair, modification and servicing of motor vehicles for items such as lube changes, inspections, windshield repair or replacement, shocks, minor part replacement and other such minor repairs.

Section 506.2.2, Open space limits: change to read as follows:

506.2.2 Open space limits. Such open space shall be either on the same lot or dedicated for public use and shall be accessed from a street or approved fire lane. In order to be considered as accessible, if not in direct contact with a street or fire lane, a minimum 10-foot wide pathway from the street or approved fire lane must be provided.

Section 508.2.5, Separation of incidental accessory occupations: change to read as follows:

508.2.5 Separation of incidental accessory occupancies. The incidental accessory occupancies listed in Table 508.2.5 shall be separated from the remainder of the building or equipped with an automatic fire-extinguishing system, or both, in accordance with Table 508.2.5. An incidental accessory occupancy shall be classified in accordance with the occupancy of that portion of the building in which it is located.

Section 708.2, Shaft enclosure required: items 7.2, 7.3 are changed to read as follows, items 7.4 and 7.5 are deleted and 7.6 and 7.7 are renumbered as 7.4 and 7.5, respectively:

7.2. Is not part of the required means of egress system except as permitted in Section 1022.1.

7.3. Is not concealed within the building construction of a wall or a floor/ceiling assemble.

7.4. Is separated from floor openings and air transfer openings serving other floors by construction conforming to required shaft enclosures.

7.5. Is limited to the same smoke compartment.

Section 903.1.1, Alternative protection: change to read as follows:

[F] 903.1 Alternative protection. Alternative automatic fire-extinguishing systems complying with Section 904 shall be permitted in addition to automatic sprinkler protection where recognized by the applicable standard, or as approved by the fire code official.

Section 903.2, Where required: change to read as follows:

[F] 903.2 Where required. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Section 903.2.1 through 903.2.12. Automatic sprinklers shall not be installed in elevator machine rooms, elevator machine spaces, and elevator hoist ways. Storage shall not be allowed with the elevator machine room indicating “ELEVATOR MACHINERY - NO STORAGE ALLOWED”.

Section 903.2.9.3, Self-service storage facility: add 3 to read as follows:

[F] 903.2.9.3 Self-service storage facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities.

Exception: One-story self service storage facilities that have no interior corridors,

with a one-hour fire barrier separation wall installed between every storage compartment.

Option B

Section 903.2.11.3, Buildings 55 feet or more in height: changed to read as follows:

903.2.11.3 Buildings over 35 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level, other than penthouses in compliance with Section 1509 of the International Building Code, that is located 35 feet (10 668 mm) or more above the lowest level of fire department vehicle access.

Exceptions:

1. Airport control towers
2. Open parking structures in compliance with Section 406.3 of the International Building Code.
3. Occupancies in Group F-2

Sections 903.2.11.7, High-Piled Combustible Storage; 903.2.11.8 Spray Booths and Rooms; and 903.2.11.9 Buildings Over 6,000 sq. ft.: added to read as follows:

[F] 903.2.11.7 High-Piled Combustible Storage. For any building with a clear height exceeding 12 feet (4572 mm). see Chapter 23 to determine if those provisions apply.

[F] 903.2.11.8 Spray Booths and Rooms. New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system in compliance with section 1504.

[F] 903.2.11.9 Buildings Over 6,000 sq. ft. An automatic sprinkler system shall be installed throughout all buildings with a building area over 6,000 sq. ft. For the purpose of this provision, fire walls shall not define separate buildings. If a conflict exists among the sprinkler requirements of this code, the more restrictive provision shall apply.

Exceptions:

1. Open parking garages in compliance with Section 406.3 of the International Building Code when approved by the code authority.

Section 903.3.1.1.1, Exempt locations: change to read as follows:

903.3.1.1.1 Exempt locations. When approved by the fire code official, automatic

sprinklers shall not be required in the following rooms or areas where such...{bulk of section unchanged}...because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.

2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the code official.

3. Generator and transformer rooms, under the direct control of a public utility, separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than 2 hours.

5. Elevator machine rooms, machinery spaces and hoist ways.

Section 903.3.1.2, NFAP 13R sprinkler systems: change to read as follows:

[F] 903.3.1.2 NFPA 13R sprinkler systems. Where allowed, automatic sprinkler systems installed in townhouses and multifamily shall be installed throughout in accordance with NFPA 13R as amended by the Fire Department or in accordance with state law.

Section 903.3.1.3, NFPA 13D sprinkler systems: change to read as follows:

[F] 903.3.1.3 NFPA 13D sprinkler systems. Where allowed, automatic sprinkler systems installed in one-and two-family dwellings shall be installed throughout in accordance with NFPA 13D or in accordance with state law.

Section 903.3.5, Water supplies: change to read as follows:

[F] 903.5 Water supplies. Water supplies for automatic sprinkler systems shall comply with this section and the standards referenced in Section 903.3.1. The potable water supply shall be protected against backflow in accordance with the requirements of this section and the International Plumbing Code.

Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every fire protection system shall be designed with a 10 psi safety factor.

Section 903.4, Sprinkler system supervision and alarms: add a second paragraph to read as follows:

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 903.4.2, Alarms: add a second paragraph to read as follows:

The alarm device required on the exterior of the building shall be weatherproof horn/strobe notification appliance with a minimum 75 candela strobe rating, installed at an approved location.

Section 903.6, Spray booths and rooms: add to read as follows:

[F] 903.6.3 Spray booths and rooms. New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system in accordance with Section 1504.

Section 905.2, Installation standard: change to read as follows:

[F] 905.2 Installation standard. Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of 10 psig and a maximum of 40 psig air pressure with a high/low alarm.

Section 905.3.8, Building area: add to read as follows:

[F] 905.3.8 Building area. In buildings exceeding 10,000 square feet in area per story, Class I automatic wet or manual wet standpipes shall be provided where any portion of the building's interior area is more than 200 feet (60960 mm) of travel, vertically and horizontally, from the nearest point of fire department vehicle access.

Exception: Automatic dry and semi-automatic standpipes are allowed as provided for in NFPA 14.

Section 905.4, Location of Class I standpipe hose connections: change item 5 to read as follows:

5. Where the roof has a slope less than four units vertical in 12 units horizontal (33.3-percent slope), each standpipe shall be provided with a two-way hose connection located either... {remainder of paragraph unchanged}

Section 905.4, Location of Class I standpipe hose connections: add the following to read as follows:

7. When required by this Chapter, standpipe connections shall be placed adjacent to all required exits to the structure and at two hundred (200') intervals along major corridors thereafter or as indicated by the fire code official.

Section 905.9, Valve supervision: add a second paragraph after the exceptions to read as follows:

Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than 45 seconds. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering.

Section 906.1, Where required: change Exception to item 1 to read as follows:

Exception. In R-2 occupancies, portable fire extinguishers shall be required only in locations specified in items 2 through 6, where each dwelling unit is provided with a portable fire extinguisher having a minimum rating of 1-A: 10-B:C.

Section 907.1.4, Design standards: add to read as follows:

907.1.4 Design Standards. All alarm systems new or replacement shall be addressable. Alarm systems serving more than 20 smoke detectors shall be analog addressable.

Exception: Existing systems need not comply unless the total building remodel or expansion initiated after the effective date of this code, as adopted, exceeds 30% of the building. When cumulative building remodel or expansion exceeds 50% of the building, compliance is required within 18 months of permit application.

Section 907.2.1, Group A: change to read as follows:

907.2.1 Group A. A manual fire alarm system that activates the occupant notification system in accordance with new Section 907.6 shall be installed in Group A occupancies having an occupant load of 300 or more persons than 100 persons above or below the lowest level of exit discharge. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy. Activation of fire alarm notification appliances shall:

1. Cause illumination of the means of egress with light of not less than 1 footcandle (11 lux) at the walking surface level, and,

2. Stop any conflicting or confusing sounds and visual distractions.

Section 907.2.3, Group E: change to read as follows:

907.2.3 Group E. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in Group E educational occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in Group E day care occupancies. Unless separated by a minimum of 100' open space, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.

Section 907.2.3, Group E: change Exception 1 and add exception 1.1 to read as follows:

1. A manual fire alarm system is not required in Group E educational and day care occupancies with an occupant load of less than 50 when provided with an approved automatic sprinkler system.

1.1 Residential In-Home day care with not more than 12 children may use

interconnected single station detectors in all habitable rooms. (For care of more than five children 2-1/2 or less years of age, see Section 907.2.6.)

Section 907.2.11.1, Group R-1: change to read as follows:

Section 907.2.11.1 Group R-1. Single-or multiple-station smoke alarms and carbon monoxide alarms shall be installed and maintained in all the following locations in Group R-1:

1. text unchanged

2. text unchanged

3. text unchanged

4. For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units that have an attached garage or gas fired appliance.

5. Where work requiring a permit occurs in existing dwellings that have attached garages or gas fired appliances carbon monoxide alarms shall be provided.

Section 907.2.11.2, Groups R-2, R-3, R-4 and I-1: change to read as follows:

Section 907.2.11.2 Groups R-2, R-3, R-4 and I-1. Single-or multiple-station smoke alarms and carbon monoxide alarms shall be installed and maintained in Groups R2, R-3, R-4 and I-1 regardless of occupant load at all the following locations:

1. text unchanged

2. text unchanged

3. text unchanged

4. For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units that have an attached garage or gas fired appliances.

5. Where work requiring a permit occurs in existing dwellings that have attached garages or gas fired appliances carbon monoxide alarms shall be provided.

Option B

Section 907.2.13, High-rise buildings: change to read as follows:

907.2.13 High-rise buildings. Buildings having any floor used for human occupancy

located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access shall be provided with an automatic smoke detection system in accordance with Section 907.2.13.1 a fire department communications system in accordance with Section 907.2.13.2 and an emergency voice/alarm communication system in accordance with Section 907.6.2.2.

_____

Section 907.2.13, High-rise buildings: change exception 3 to read as follows:

3. Buildings with an occupancy in Group A-5 in accordance with Section 303.1, when used for open air seating; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas.

Section 907.5.2.6, Type: add to read as follows:

907.5.2.6 Type. Manual alarm initiating devices shall be an approved double action type.

Section 907.7.1, Installation: add to read as follows:

907.7.1.1 Installation. All fire alarm systems shall be installed in such a manner that the failure of any single initiating device or single open in an initiating circuit conductor will not interfere with the normal operation of other such devices. All initiating circuit conductors shall be Class “A” wired with a minimum of six feet separation between supply and return circuit conductors. IDC - Class “A” style - D - SLC Class “A” Style 6 - NAC - Class “B” Style Y. The IDC from an addressable device used to monitor the status of a suppression system may be wired Class “B”. Style B provided the distance from the addressable device is within 10 feet of the suppression system device.

Section 907.7.5, Communication Requirements: add to read as follows:

[F] 907.7.5.2 Communication Requirements. All alarm systems, new or replacement, shall transmit alarm, supervisory and trouble signals descriptively to the approved central station, remote supervisory station or proprietary supervising station as defined in NFPA 72. Alarms shall not be permitted to be transmitted as a General Alarm or Zone condition.

Section 910.1, General: change Exception 2 to read as follows:

2. Where areas of buildings are equipped with early suppression fast- response (ESFR) sprinklers, only manual smoke and heat vents shall be required within theses area. Automatic smoke and heat vents are prohibited.

Section 910.2.3, Group H and Section 910.2.4 Exit access travel distance increase: added to read as follows:

910.2.3 Group H. Buildings and portions thereof used as a Group H occupancy as follows:

1. In occupancies classified as Group H-2 or H-3, any of which are more than 15,000 square feet (1394 m2) in single floor area.

Exceptions:

1. Buildings of noncombustible construction containing only noncombustible materials.

2. In areas of buildings in Group H used for storing Class 2, 3 and 4 liquid and solid oxidizers, Class 1 and unclassified detonable organic peroxides, Class 3 and 4 unstable (reactive) materials, or Class 2 or 3 water reactive materials as required for a high-hazard commodity classification.

910.2.4 Exit access travel distance increase: Buildings and portions thereof used as a Group F-1 or S-1 occupancy where the maximum exit access travel distance is increased in accordance with Section 1016.3.

Table 910.3, Requirements for Draft Curtains and Smoke and Heat Vents: change the title of the first row of the table from “Group F-1 and S-1” to include “Group H” and to read as follows:

The automatic operating mechanism of the smoke and heat vents shall operate at a temperature rating at least 100 degrees F (approximately 38 degrees Celsius) greater than the temperature rating of the sprinklers installed.

Section 912.2.3, Hydrant distance: add to read as follows:

[F] 912.2.3 Hydrant distance. An approved fire hydrant shall be located within 100 feet of the fire department connection as the fire hose lays.

Exception: The distance described herein may be increased by the fire code official for cause.

Section 913.1, General: add second paragraph and exception to read as follows:

When located on the ground level at an exterior wall, the fire pump room shall be provided with an exterior fire department access door that is not less than 3 ft. in width and 6 ft. 8 in. in height, regardless of any interior doors that are provided. Key box shall be provided at this door, as required by Section 506.1.

Exception: When it is necessary to locate the fire pump room on other levels or not at an exterior wall, the corridor leading to the fire pump room access from the exterior of the building shall be provided with the equivalent fire resistance as that required for the pump room, or as approved by the fire code official. Access keys shall be provided in the key box as required by Section 506.1.

Section 1004.1.1, Areas without fixed seating: exception is deleted.

Section 1004.2, Increased occupant load: change to read as follows:

1004.2 Increased occupant load - When approved by the code official’s, the occupant load permitted in any building.... {Remainder of section is unchanged}.”

Section 1007.1, Accessible means of egress required: add exception 4 to read as follows:

4. Buildings regulated under State Law and built in accordance with State registered plans, including any variances or waivers granted by the State, shall be deemed to be in compliance with the requirements of Section 1007.

Section 1008.1.4.4, Access-controlled egress doors: add a sentence at the end of item 3 and add items 7 and 8 to read as follows:

3. Is amended to add the following to the end of the paragraph. “A push to exit button is not permitted on an exit door requiring panic hardware which is installed after the effective date of this code. A touch bar or other approved method to provide a direct interruption of power to the lock is required.

7. If a full building smoke detection system is not provided, approved smoke detectors shall be provided on both the access and egress sides of doors and at a location approved by the fire code official in accordance with NFPA 72. Actuation of a smoke detector shall automatically unlock the door.

8. When required by the fire code official, a Knox gate key switch or an approved toggle switch located inside a Knox key box must be installed at an approved location to permit an emergency override of any magnetic locking device system.

Section 1008.1.9.3, Locks and latches: add item 3.1 to read as follows:

3.1 Where egress doors are used in pairs and positive latching is required, approved automatic flush bolts shall be permitted to be used, provided that both leaves achieve positive latching regardless of the closing sequence and the door leaf having the automatic flush bolts has no doorknobs or surface mounted hardware.

Section 1008.1.9.4, Bolt locks: change exceptions 3 and 4 to read as follows:

Exceptions:

3. Where a pair of doors serves an occupant load of less than 50 persons in a Group B, F, M or S occupancy, ... {remainder of section unchanged}.

4. Where a pair of doors serves a Group B, F, M or S occupancy. (remainder text unchanged)

Section 1008.1.9.8, Electromagnetically locked egress doors: change to read as follows:

1008.1.9.8 Electromagnetically locked egress doors. Doors in the means of egress that are not otherwise required to have panic hardware in buildings with an occupancy in Group A, B, E, I-1, I-2, M, R-1 or R-2 and doors to tenant spaces in Group A, B, E, I-1, M, R-1 or R-2 shall be permitted to be electromagnetically locked if equipped with listing hardware that incorporates a built-in switch and meet the requirements below: (remaining text unchanged).

Section 1008.1.9.10, Stairway doors: change exception 3 to read as follows:

3. In stairways serving not more than four (4) stories, 50% of the doors are permitted to be locked from the side opposite the egress side, provided they are operable from the egress side...{remainder of paragraph unchanged}. The use of this exception is permitted only upon approval of the fire code official.

Section 1011.1.1: add to read as follows:

Where exit signs are required by section 1011.1, additional approved exit signs that are internally or externally laminated, photo-luminescent or self-luminous shall be required in all corridors serving guestrooms of R-1 and R-2 occupancies. The bottom of each sign shall be placed not less than six (6) inches nor more than eight (8) inches above the floor level and shall indicate the path of exit and exit access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign within four (4) inches of the door frame.

Section 1015.7, Electrical Rooms: add to read as follows:

1015.7 Electrical Rooms. For electrical rooms, special exiting requirements may apply. Reference the electrical code as adopted.

Section 1016.3, Roof Vent Increase: add to read as follows:

1016.3 Roof Vent Increase. In buildings that are one story in height, equipped with automatic heat and smoke vents complying with section 910 and equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the maximum exit access travel distance shall be 400 feet for occupancies in Group F-1 or S-1.

Section 1018.1, Construction: change to add the following to the end of the first paragraph:

Corridors Shall be fire-resistance rated in accordance with table 1018.1. The corridor walls required to be fire-resistance rated shall comply with Section 709 for fire partitions. “An approved smoke detection system is required in any corridor or common atmosphere within the corridor if any of the corridor provisions of Table 1018.1 referencing a rated corridor of less than one hour is used. The actuation of any detector shall activate alarms audible in all areas served by the corridor.”

Section 1018.6, Corridor Continuity: change to read as follows:

1018.6, Corridor Continuity. All corridors shall be continuous from the point of entry to an exit, and shall not be interrupted by intervening rooms.

Section 1022.1, Enclosures required: add exceptions 8 and 9 to read as follows:

8. In other than occupancy Groups H and I, a maximum of 50 percent of egress stairways serving one adjacent floor are not required to be enclosed, provided at least two means of egress are provided from both floors served by the unenclosed

stairways. Any two such interconnected floors shall not be open to other floors.

9. In other than occupancy Groups H and I, interior egress stairways serving only the first and second stories of a building equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 are not required to be enclosed, provided at least two means of egress are provided from both floors served by the unenclosed stairways. Such interconnected stories shall not be open to other stories.

_____

Option B

Section 1022.9, Smoke proof enclosures and pressurized enclosures: change to read as follows:

1022.9 Smoke proof enclosures and pressurized enclosures. In buildings required to comply with Section 403 or 405, each of the exit enclosures serving a story with a floor service not more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access or more than 30 feet (9 144 mm) below...{remainder of section unchanged}.

_____

Option B

Section 1024.1, General: change read as follows:

1024.1: General. Approved luminous egress path markings delineating the exit path shall be provided in buildings of Groups A, B, E, I, M and R-1 having occupied floors located more than 55 feet (16 764 mm) above the lowest level of fire department vehicle access in accordance with...{remaining text unchanged}.

_____

Section 1026.6, Exterior ramps and stairway protection: change exception 4 to read as follows:

Exceptions:

4. Separation from the open-ended corridors of the building ...(remaining text unchanged)

Section 1101.2, Design: add an exception to read as follows:

Exception: Buildings regulated under State Law and built in accordance with State certified plans, including any variances or waivers granted by the State, shall be deemed to be in compliance with the requirements of this Chapter.

Section 1102, Definitions: add an exception to read as follows:

Exception: Buildings regulated under State Law and built in accordance with State registered plans, including and variances or waivers granted by the State, shall be deemed to be in compliance with the requirements of the Chapter.

Table 1505.1, Minimum Roof Covering Classification for Types of Construction: change footnotes b to read as follows and delete footnote c:

b. All individual replacement shingles shall be in compliance with the rating required by this table.

Section 1505.6, Fire-retardant-treated wood shingles and shakes and 1505.7, Special purpose roofs: are deleted.

Sections 1507.8, Roof Insulation; 1507.9, Rooftop Structures; and 1507.10, Reroofing: are deleted.

Section 2308.4.3 Application to engineered design: added to read as follows:

2308.4.3 Application to engineered design. When accepted by the Building Official, any portion of this section is permitted to apply to buildings that are otherwise outside the limitations of this section provided that:

1. The resulting design will comply with the requirements specified in Chapter 16;

2. The load limitations of various elements of this section are not exceeded; and

3. The portions of this section which will apply are identified by an engineer in the construction documents.

Section 2901.1, Scope: add a sentence to read as follows:

The provisions of this Chapter are meant to work in coordination with the provisions of Chapter 4 of the International Plumbing Code. Should any conflicts arise between the two chapters, the Building Official shall determine which provision applies.

Section 2902.1, Minimum number of fixtures: change to read as follows:

2902.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number as follows:

1. Assembly Occupancies: At least one drinking fountain shall be provided at each floor level in an approved location.

   Exception: A drinking fountain need not be provided in a drinking or dining establishment.

2. Groups A, B, F, H, I, M and S Occupancies: Buildings or portions thereof where persons are employed shall be provided with at least one water closet for each sex except as provided for in Section 2902.2.

3. Group E Occupancies: Shall be provided with fixtures as shown in Table 2902.1.

4. Group R Occupancies: Shall be provided with fixtures as shown in Table 2902.1.

It is recommended, but not required, that the minimum number of fixtures provided also comply with the number shown in Table 2902.1. Types of occupancies not shown in Table 2902.1 shall be considered individually by the building official. The number of occupants shall be determined by this code. Occupancy classification shall be determined in accordance with Chapter 3.

Section 2902.2, Separate facilities: change Exception 3 as follows:

3. Separate facilities shall not be required in mercantile occupancies in which the maximum occupant load is 100 or less.

Section 3006.1, General: add to read as follows and renumber remaining sections:

3006.1, General. Elevator machine rooms shall be provided.

Section 3006.5 (formerly Section 3006.4), Machine rooms and machinery spaces: change to read as follows and delete exceptions 1 and 2:

3006.5. Machine Rooms. (text unchanged)... Storage shall not be allowed within the elevator machine room. Provide approved signage at each entry door to the elevator machine room stating “Elevator Machinery-No Storage Allowed.”

Section 3109.1, General: change to read as follows:

3109.1 General. Swimming pools shall comply with the requirements of this section and other applicable sections of this code as well as also complying with applicable state laws.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-45–14-60 Reserved

ARTICLE IV. INTERNATIONAL PLUMBING CODE AMENDMENTS/ADMINISTRATION*(25)

Sec. 14-61 Adoption; International Plumbing Code

The International Plumbing Code, 2009 edition, as published by the International Code Council is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-62 Administration of plumbing code

The plumbing code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-63 Amendments

The International Plumbing Code, 2009 Edition, adopted in section 14-61 of this article, shall be amended as follows:

Table of Contents, Chapter 7, Section 714: change to read as follows:

Section 714 Engineered Drainage Design.....62

Section 102.8, Referenced codes and standards: change to read as follows:

102.8 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 13 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where the requirements of reference standards or manufacturer's installation instructions do not conform to minimum provisions of this code, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

Sections 106.6.2, Fee schedule and 106.6.3, Fee refunds: change to read as follows:

106.6.2 Fee schedule. See approved fees schedule (Euless Code of Ordinances Chapter 30).

106.6.3 Fee Refunds. The building official shall establish a policy for authorizing the refunding of fees. (Delete balance of section)

Section 109, Means of Appeal: change to read as follows:

SECTION 109
MEANS OF APPEAL

109.1 Application for appeal. Any person shall have the right to appeal a decision of the building official to the board of appeals established by ordinance. See Euless Code Sec. 84-27 (ZBA Board)

Section 305.6.1, Sewer depth: change to read as follows:

305.6.1 Sewer depth. Building sewers shall be a minimum of 12 inches (304 mm) below grade.

Section 305.9, Protection of components of plumbing system: change to read as follows:

> 305.9 Protection of components of plumbing system. Components of a plumbing system installed within 3 feet along alleyways, driveways, parking garages or other locations in a manner in which they would be exposed to damage shall be recessed into the wall or otherwise protected in an approved manner.

Section 310.4, Water closet compartment: is deleted.

Section 310.5, Urinal partitions: is deleted.

Sections 312.10.1, Inspections and 312.10.2, Testing: change to read as follows:

> 312.10.1 Inspections. Annual inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable. In the absence of local provisions, the owner is responsible to ensure that testing is performed.
>
> 312.10.2 Testing. Reduced pressure principle backflow preventer assemblies, double check-valve assemblies, pressure vacuum breaker assemblies, reduced pressure detector fire protection backflow prevention assemblies, hose connection backflow preventers, and spill-proof vacuum breakers shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with applicable local provisions. In the absence of local provisions, the owner is responsible to ensure that testing is done in accordance with one of the following standards:
>
> {list of standards unchanged}

Section 314.2.1, Condensate disposal: change third sentence to read as follows:

> 314.2.1 Condensate disposal. {text unchanged} Condensate shall not discharge into a street, alley, sidewalk, rooftop, or other areas so as to cause a nuisance.

Section 314.2.2, Drain pipe materials and sizes: change to read as follows:

> 314.2.2 Drain pipe materials. Components of the condensate disposal system shall be cast iron, galvanized steel, copper, cross-linked polyethylene, polyethylene, ABS, CPVC, or schedule 80 PVC pipe or tubing when exposed to ultra violet light. All components shall be selected for the pressure, temperature and exposure rating of the installation. Joints and connections shall be made in accordance with the applicable provisions of Chapter 7 relative to the material type. Condensate waste and drain line size shall not be less than 3/4-inch (19 mm) internal diameter and shall not decrease in size from the drain pan connection to the place of condensate drainage, the pipe or tubing shall be sized in accordance with Table 314.2.2. All horizontal sections of drain piping shall be installed in uniform alignment at a uniform slope. All roof top drain lines shall be supported by appropriate intervals and approved support materials.

Section 401.1, Scope: change to read as follows:

401.1 Scope. The Chapter shall govern the materials, design and installation of plumbing fixtures, faucets and fixture fittings in accordance with the type of occupancy, and shall provide for the minimum number of fixtures for various types of occupancies. The provisions of this Chapter are meant to work in coordination with the provisions of the Building Code. Should any conflicts arise between the two chapters, the Building Official shall determine which provision applies.

Section 403.1, Minimum number of fixtures: change to read as follows:

403.1 Minimum number of fixtures. Plumbing fixtures shall be provided for the type of occupancy and in the minimum number as follows:

5. Assembly Occupancies: At least one drinking fountain shall be provided at each floor level in an approved location.

   Exception: A drinking fountain need not be provided in a drinking or dining establishment.

6. Groups A, B, F, H, I, M and S Occupancies: Buildings or portions thereof where persons are employed shall be provided with at least one water closet for each sex except as provided for in Section 403.2.

7. Group E Occupancies: Shall be provided with fixtures as shown in Table 403.1.

8. Group R Occupancies: Shall be provided with fixtures as shown in Table 403.1.

It is recommended, but not required, that the minimum number of fixtures provided also comply with the number shown in Table 403.1. Types of occupancies not shown in Table 403.1 shall be considered individually by the building official. The number of occupants shall be determined by the International Building Code. Occupancy classification shall be determined in accordance with the International Building Code.

Section 403.1.2, Finish material: add to read as follows:

403.1.2 Finish material. Finish materials shall comply with Section 1210 of the International Building Code.

Section 409.2, Water connection: change to read as follows:

409.2 Water connection. The water supply to a commercial dishwashing machine shall be protected against backflow by an air gap or backflow preventer in accordance with Section 608.

Section 410.1, Approval: change to read as follows:

410.1 Approval. Drinking fountains shall conform to ASME A112.19.1, ASME A112.19.2 or ASME A112.19.9, and water coolers shall conform to ARI 1010.

Exception: A drinking fountain need not be provided in a drinking or dining establishment.

Section 412.4, Public laundries and central washing facilities: change to read as follows:

412.4 Required location. Floor drains shall be installed in the following areas with trap primers as required:

1. In public coin-operated laundries and in the central washing facilities of multiple family dwellings, the rooms containing the automatic clothes washers shall be provided with floor drains located to readily drain the entire floor area.

2. Commercial kitchens. In lieu of floor drains in commercial kitchens, the building official may accept floor sinks.

Section 417.5, Shower floors or receptors: change to read as follows:

417.5 Shower floors or receptors. Floor surfaces shall be constructed of impervious, noncorrosive, nonabsorbent and waterproof materials.

Thresholds shall be a minimum of 2 inches (51 mm) and a maximum of 9 inches (229 mm), measured from top of the drain to top of threshold or dam. Thresholds shall be of sufficient width to accommodate a minimum twenty-two (22) inch (559 mm) door.

Exception: Showers designed to comply with ICC/ANSI A117.1.

Section 417.5.2, Shower lining: change to read as follows:

417.5.2 Shower lining. Floors under shower compartments, except where prefabricated receptors have been provided, shall be lined and made watertight utilizing material complying with Sections 417.5.2.1 through 417.5.2.4. Such liners shall turn up on all sides at least 3 inches (51 mm) above the finished threshold level and shall extend outward over the threshold and fastened to the outside of the threshold jamb. Liners shall be recessed and fastened to an approved backing...{remainder of section unchanged}

Section 417.7, Test for shower receptors: add to read as follows:

417.7 Test for shower receptors. Shower receptors shall be tested for water tightness by filling with water to the level of the rough threshold. The drain shall be plugged in a manner so that both sides of pans shall be subjected to the test at the point where it is clamped to the drain.

Section 419.3, Surrounding material: change to read as follows:

419.3 Surrounding material. Wall and floor space to a point 2 feet (610 mm) in front of a urinal lip and 4 feet (1219 mm) above the floor and at least 2 feet (610 mm) to each side of the urinal shall be waterproofed with a smooth, readily cleanable, hard, nonabsorbent material.

Section 502.3, Water heaters installed in attics: change to read as follows:

502.3 Water heaters installed in attics. Attics containing a water heater shall be provided...{bulk of paragraph unchanged}...removal of water heater. The passage way shall have continuous solid flooring with a minimum thickness of 1/2" plywood or 5/8" wafer board and be placed over a load bearing wall or with engineered approval and shall be not less than 30" high and 22" wide.....(remainder of text unchanged).

Section 502.6, Water heaters above ground or floor: add to read as follows:

502.6 Water heaters above ground or floor. When the attic, roof, mezzanine or platform in which a water heater is installed is more than eight (8) feet (2438 mm) above the ground or floor level, it shall be made accessible by a stairway or permanent ladder fastened to the building.

502.6.1 Whenever the mezzanine or platform is not adequately lighted or access to a receptacle outlet is not obtainable from the main level, lighting and a receptacle outlet shall be provided within 25 feet.

Section 504.6, Requirements for discharge piping: change to read as follows:

504.6 Requirements for discharge piping. The discharge piping serving a pressure relief valve, temperature relief valve or combination thereof shall:

1. Not be directly connected to the drainage system.

2. Discharge through an air gap fitting.

3. Not be smaller than the diameter of the outlet of the valve served and shall discharge full size to the air gap.

4. Serve a single relief device and shall not connect to piping serving any other relief device or equipment.

   Exception: Multiple relief devices may be installed to a single T & P discharge piping system when approved by the administrative authority and permitted by the manufactures installation instructions and installed with those instructions.

5. Discharge to an indirect waste receptor or to the outdoors. Where discharging to the outdoors in areas subject to freezing, discharge piping shall be first piped to an indirect waste receptor through an air gap located in a conditioned area.

6. Discharge in a manner that does not cause personal injury or structural damage.

7. Discharge to a termination point that is already observable by the building occupants.

8. Not be trapped.

9. Be installed so as to flow by gravity.

10. Not terminate less than 6 inches or more than 24 inches (152 mm) above grade nor more than 6 inches above the waste receptor.

11. Not have a threaded connection at the end of such piping.

12. Not have valve or tee fittings.

13. Be constructed of those materials listed in Section 605.4 or materials tested, rated and approved for such use in accordance with ASME A112.4.1.

Section 604.4.1, State maximum flow rate: add to read as follows:

604.4.1 State maximum flow rate. Where the State mandated maximum flow rate is more restrictive than those of this section, the State flow rate shall take precedence.

Table 605.3, Water Service Pipe: add heading to read as follows:

Approved materials for water service piping are copper or copper alloy, pex pipe and pex-al-pex.

Tables 605.4, Water Distribution Pipe and 605.5, Pipe Fittings: Add heading to read as follows:

Approved materials for water distribution piping are copper or copper alloy, pex pipe and pex-al-pex.

Section 606.1, Location of full-open valves: items 4 and 5 are deleted.

Section 606.2, Location of shutoff valves: change to read as follows:

606.2 Location of shutoff valve. Shutoff valves shall be installed in the following location:

1. On the fixture supply to each plumbing fixture other than bathtubs and showers in one- and two-family residential occupancies, and other than in individual sleeping units that are provided with unit shutoff valves in hotels, motels, boarding houses and similar occupancies.

3. On the water supply pipe to each appliance or mechanical equipment.

Section 608.1, General: change to read as follows:

608.1 General. A potable water supply system shall be designed, installed and maintained in such a manner so as to prevent contamination from nonpotable liquids, solids or gases being introduced into the potable water supply through cross-connections or any other piping connections to the system. Back flow preventer applications shall conform to applicable local regulations, Table 608.1, and as specifically stated in Sections 608.2 through 608.16.10.

Section 608.16.5, Connections to lawn irrigation systems: change to read as follows: and add Section 608.16.5.1:

608.16.5 Connections to Lawn Irrigation Systems. The potable water supply system to lawn irrigation systems shall be protected against backflow by an atmospheric-type vacuum breaker, a pressure-type vacuum breaker, a double-check assembly or a reduced pressure principle backflow preventer . . . {remainder of section unchanged}. All irrigation systems shall have rain and freeze protection installed.

Section 608.16.5.1. Lawn Irrigation systems rules and law compliance with State Law and TCEQ requirements.

Landscape irrigation rules promulgated by the Texas Commission on Environmental Quality and contained in Chapter 344, Subchapters E and F, sections 344.50–344.65, TEXAS ADMINISTRATIVE CODE, are hereby adopted by reference as the landscape irrigation rules of the City

Section 608.17, Protection of individual water supplies: change to read as follows:

608.17 Protection of individual water supplies. An individual water supply shall be located and constructed so as to be safeguarded against contamination in accordance with applicable local regulations. In the absence of other local regulations, installation shall be in accordance with Sections 608.17.1 through 608.17.8.

Section 610.1, General: change to read as follows:

610.1 General. New or repaired potable water systems shall be purged of deleterious matter and disinfected prior to utilization. The method to be followed shall be that prescribed by the health authority or water purveyor having jurisdiction or, in the absence of a prescribed method, the procedure described in either AWWA C651 or AWWA C652, or as described in this section. This requirement shall apply to “on-site” or “inplant” fabrication of a system or to a modular portion of a system.

1. The pipe system shall be flushed with clean, potable water until dirty water does not appear at the points of outlet.

2. The system or part thereof shall be filled with a water/chlorine solution containing at least 50 parts per million (50 mg/l) of chlorine, and the system or part thereof shall be valved off and allowed to stand for 24 hours; or the system or part thereof shall be filled with a water/chlorine solution containing at least 200 parts per million (200 mg/l) of chlorine and allowed to stand for 3 hours.

3. Following the required standing time, the system shall be flushed with clean potable water until the chlorine is purged from the system.

4. The procedure shall be repeated where shown by a bacteriological examination that contamination remains present in the system.

Exception: With prior approval the Code Official may waive this requirement when deemed un-necessary by the Code Official.

Section 712.5, Dual Pump System: add to read as follows:

712.5 Dual Pump System. All sumps shall be automatically discharged and, when in any "public use" occupancy where the sump serves more than 10 fixture units, shall be provided with dual pumps or ejectors arranged to function independently in case of overload or mechanical failure. For storm drainage sumps and pumping systems, see Section 1113.

Section 802.1.6, Domestic dishwashing machines: change to read as follows:

802.1.6 Domestic dishwashing machines. Domestic dishwashing machines shall discharge indirectly through an air gap or air break into a standpipe or waste receptor in accordance with Section 802.2, or discharge into a wye-branch fitting on the tailpiece of the kitchen sink or the dishwasher connection of a food waste grinder. The waste line of a domestic dishwashing machine discharging into a kitchen sink tailpiece or food waste grinder shall connect to a deck-mounted air gap.

Section 802.4, Standpipes: add a sentence to read as follows:

No standpipe shall be installed below the ground.

Section 904.1, Roof extension: change to read as follows:

904.1 Roof extension. All open vent pipes that extend through a roof shall be terminated at least six (6) inches (152 mm) 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 7 feet (2134 mm) above the roof.

Section 906.1, Distance of trap from vent: change to read as follows:

906.1 Distance of trap from vent. Each fixture trap shall have a protecting vent located so that the slope and the developed length in the fixture drain from the trap weir to the vent fitting are with the requirements set forth in Table 906.1.

Section 912.1, Type of fixtures: change to read as follows:

912.1 Type of fixture. A combination drain and vent system shall not serve fixtures other than floor drains, standpipes, and indirect waste receptors. Combination drain and vent systems shall not receive the discharge from a food waste grinder or clinical sink.

Section 1002.10, Plumbing in mental health centers: is deleted.

Table 1003.3.4.1, Capacity of Grease Interceptors: replace table to read as follows:

All food establishments having a food disposal or discharge of more than 50 gallons per

minute shall discharge into an oil & grease interceptor.

Establishments with a discharge of 50 gallons per minute or less shall discharge into at least a 100-pound size grease trap. An approved-type grease interceptor or grease trap complying with the provisions of this subsection shall be installed in the waste line leading from sinks, drains, and other fixtures or equipment in establishments such as restaurants, cafes, lunch counters, cafeterias, bars and clubs, hotels, hospitals, sanitarium, factory or school kitchens, or other establishments where grease may be introduced into the drainage or sewage system in quantities that can affect line stoppage or hinder sewage treatment or private sewage disposal when grease interceptors are required. A grease trap is not required for individual dwelling units or for any private living quarters.

Grease Interceptors

Concrete	- Shall be composed of one part Portland cement and five parts aggregate. - Reinforcement bars deformed number four bars on 18-inch centers.
Manholes	- Cast iron frame with 20-inch cover.
Vents	- Four-inch sanitary vent may be reduced to two inches if interceptor is connected to a properly vented sewer or waste line within 25 feet. - Relief vents shall be two inches between compartments and to atmosphere above roof, and inside building.
Capacity	- The figures below are approximates: 100 cubic feet holding 750 gallons retention capacity.
Cleanout	- Should be two-way located as near as possible to the interceptor on outflow line above seal.

Section 1101.8, Cleanouts required: change to read as follows:

1101.8 Cleanouts required. Cleanouts shall be installed in the building storm drainage system...{remainder of section unchanged}...

Section 1106.1, General: change to read as follows:

1106.1 General. The size of the vertical conductors and leaders, building storm drains, building storm sewers, and any horizontal branches of such drains or sewers shall be based on six (6) inches per hour rainfall rate.

Section 1107.3, Sizing of secondary drains: change to read as follows:

1107.3 Sizing of secondary drains. Secondary (emergency) roof drain system shall be sized in accordance with Section 1106. Scuppers shall be sized to prevent the depth of ponding water... {remainder of section unchanged}

Section 1202.1, Nonflammable medical gases: exception 2 is deleted.

Appendices B, C, D, E, F and G are adopted.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-64-14-80. Reserved.

ARTICLE V. INTERNATIONAL FUEL GAS CODE AMENDMENTS/ADMINISTRATION*(26)

Sec. 14-81 Adoption; International Fuel Gas Code

The International Fuel Gas Code, 2009 edition, as published by the International Code Council is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-82 Administration of fuel gas code

The fuel gas code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-83 Amendments

The International Fuel Gas Code, 2009 Edition, adopted in section 14-81 of this article, shall be amended as follows:

Section 102.2, Existing installations: add an exception to read as follows:

> Exception: Existing dwelling units shall comply with Section 621.2.

Section 102.8, Referenced codes and standards: change to read as follows:

> 102.8 Referenced codes and standards. The codes and standards referenced herein shall be those that are listed in Chapter 8 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

Sections 106.6.2, Fee schedule and 106.6.3, Fee refunds: change to read as follows:

> 106.6.2 Fees. See approved fees schedule (Euless Code of Ordinances Chapter 30)

106.6.3 Fee refunds. The building official shall establish a policy for authorizing the refunding of fees. (Delete balance of section)

Section 109 (IFGC) Means of Appeal: change to read as follows:

Section 109
MEANS OF APPEAL

109.1 Application for appeal. Any person shall have the right to appeal a decision of the building official to the board of appeals established by ordinance. See Euless Code Sec. 84-27 (ZBA Board)

Section 304.10, Louvers and grilles: change to read as follows:

304.10 Louvers and grilles. The required size of openings..{bulk of paragraph unchanged}...to provide the free area specified. Where the design and free area are not known, it shall be assumed that wood louvers will have 25-percent free area and metal louvers and grilles will have 50-percent free area. {Remainder of section unchanged.}

Section 304.11, Combustion air ducts: change to read as follows:

304.11 Combustion air ducts. Combustion air ducts shall comply with all the following:

1. Ducts shall be constructed of galvanized steel complying with Chapter 6 of the International Mechanical Code or of a material having equivalent corrosion resistance, strength and rigidity.

   Exception: Within dwellings units, unobstructed stud and joist spaces shall not be prohibited from conveying combustion air, provided that not more than one required fireblock is removed.

2. Ducts shall terminate in an unobstructed space allowing free movement of combustion air to the appliances.

3. Ducts shall serve a single enclosure.

4. Ducts shall not serve both upper and lower combustion air openings where both such openings are used. The separation between ducts serving upper and lower combustion air openings shall be maintained to the source of combustion air.

5. Ducts shall not be screened where terminating in an attic space.

6. Horizontal upper combustion air ducts shall not slope downward toward the source of combustion air.

7. The remaining space surrounding a chimney liner, gas vent, special gas vent or plastic piping installed within a masonry, metal or factory-built chimney shall not be used to supply combustion air.

Exception: Direct-vent gas-fired appliances designed for installation in a solid fuel-burning fireplace where installed in accordance with the manufacturer's instructions.

8. Combustion air intake openings located on the exterior of a building shall have the lowest side of such openings located not less than 12 inches (305 mm) vertically from the adjoining ground level or the manufacturer's recommendation, whichever is more restrictive.

Section 305.5, Private garages: is deleted.

Section 306.3, Appliances in attics: change to read as follows:

M) .306.3 Appliances in attics. Attics containing appliances requiring access shall be provided ... {bulk of paragraph unchanged}.. side of the appliance. The clear access opening shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), or larger where such dimensions are not large enough to allow removal of the largest appliance and shall have continuous unobstructed solid flooring not less than 1/2" thick plywood or 5/8" particle board, 24 inches (762 mm) wide. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the equipment. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), or larger where such dimensions are not large enough to allow removal of the largest appliance. As a minimum, for access to the attic space, provide one of the following:

1. A permanent stair.

2. A pull down stair.

3. An access door from an upper floor level.

4. Access Panel may be used in lieu of items 1, 2, and 3 with prior approval of the code official due to building conditions.

Exceptions:

1. The passageway and level service space are not required where the appliance is capable of being serviced and removed through the required opening.

2. Where the passageway is not less than ... (bulk of section to read the same).

A receptacle outlet shall be provided at or near the equipment and appliance location within 25 feet and in accordance with the Electrical Code.

Section 306.5, Equipment and appliances on roofs or elevated structures: change to read as follows:

306.5 Equipment and appliances on roofs or elevated structures. Where equipment and

appliances requiring access are installed on roofs or elevated structures at an aggregate height exceeding 16 feet (4877 mm), such access shall be provided by a permanent approved means of access. Permanent exterior ladders providing roof access need not extend closer than 12 feet (2438 mm) to the finish grade or floor level below and shall extend to the equipment and appliance's level service space. Such access shall...{bulk of section to read the same}...on roofs having a slope greater than 4 units vertical in 12 units horizontal (33-percent slope).

A receptacle outlet shall be provided at or near the equipment and appliance location within 25 feet and in accordance with the Electrical Code.

Section 306.5.1, Sloped roofs: change to read as follows:.

[M] 306.5.1 Sloped roofs. Where appliances, equipment fans or other components that require service are installed on roofs having slopes greater than 4 units vertical in 12 units horizontal and having an edge more than 30 inches (762 mm) above grade at such edge, a catwalk at least 16 inches in width with substantial cleats spaced not more than 16 inches apart shall be provided from the roof access to a level platform at the appliance. The level platform shall be provided on each side of the appliance to which access is required for service, repair or maintenance. The platform shall be not less than 30 inches (762 mm) in any dimension and shall be provided with guards. The guards shall extend not less than 42 inches (1067 mm) above the platform, shall be constructed so as to prevent the passage of a 21 inch-diameter (533 mm) sphere and shall comply with the loading requirements for guards specified in the International Building Code.

Sections 306.7, Water heaters above ground floor and 306.7.1 Illumination and convenience outlet: add to read as follows:

306.7 Water heaters above ground floor. When the attic, roof, mezzanine or platform in which a water heater is installed is more than eight (8) feet (2438 mm) above the ground or floor level, it shall be made accessible by a stairway or permanent ladder fastened to the building.

Exception: A max 10 gallon water heater (or larger when approved by the code official) is capable of being accessed through lay-in ceiling and a water heater is installed is not more than ten (10) feet (3048 mm) above the ground or floor level and may be reached with a portable ladder.

306.7.1 Illumination and convenience outlet. Whenever the mezzanine or platform is not adequately lighted or access to a receptacle outlet is not obtainable from the main level, lighting and a receptacle outlet shall be provided in accordance with Section 306.3.1.

Section 401.5, Identification: add a second paragraph to read as follows:

Both ends of each section of medium pressure corrugated stainless steel tubing (CSST) shall identify its operating gas pressure with an approved tag. The tags are to be composed of aluminum or stainless steel and the following wording shall be stamped into the tag:

"WARNING
1/2 to 5 psi gas pressure
Do Not Remove"

Section 402.3, Sizing: add an exception to read as follows:

Exception: Corrugated stainless steel tubing (CSST) shall be a minimum of 1/2".

Section 404.10, Minimum burial depth: change to read as follows:

404.10 Minimum burial depth. Underground piping systems shall be installed a minimum depth of 18 inches (458 mm) below grade.

Section 406.1, General: change to read as follows:

406.1 General. Prior to acceptance and initial operation, all piping installations shall be inspected and pressure tested to determine that the materials, design, fabrication, and installation practices comply with the requirements of this code. The permit holder shall make the applicable tests prescribed in Sections 406.1.1 through 406.1.5 to determine compliance with the provisions of this code. The permit holder shall give reasonable advance notice to the code official when the piping system is ready for testing. The equipment, material, power and labor necessary for the inspections and test shall be furnished by the permit holder and the permit holder shall be responsible for determining that the work will withstand the test pressure prescribed in the following tests.

Section 406.4, Test pressure measurement: change to read as follows:

406.4 Test pressure measurement. Test pressure shall be measured with a manometer or with a pressure-measuring device designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. For tests requiring a pressure of 3 psig, mechanical gauges shall utilize a dial with a minimum diameter of three and one half inches (3-1/2"), a set hand, 1/10 pound incrementation and pressure range not to exceed 6 psi. For tests requiring a pressure of 10 psig, mechanical gauges shall utilize a dial with a minimum diameter of three and one-half inches (3-1/2"), a set hand, a minimum of 2/10 pound incrementation and a pressure range not to exceed 20 psi.

Section 406.4.1, Test pressure: change to read as follows:

406.4.1 Test pressure. The test pressure to be used shall be not less than 3 psig (20 kPa gauge), or at the discretion of the Building Official, the piping and valves may be tested at a pressure of at least six (6) inches (152 mm) of mercury, measured with a manometer or slope gauge. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa) and less than 56 inches of water column pressure (13.92 kPa), the test pressure shall not be less than ten (10) pounds per square inch (40.4 kPa). For piping carrying gas at a pressure that exceed 56 inches of water column (13.92 kPa), the test pressure shall be not less than one and one-half times the proposed maximum working pressure.

Section 406.4.2, Test duration: change to read as follows:

406.4.2 Test duration. Test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than fifteen (15) minutes. For welded piping, and for piping carrying gas at pressures in excess of fourteen (14) inches water column pressure (3.48 kPa), the test duration shall be held for a length of time satisfactory to the Building Official, but in no case for less than thirty (30) minutes.

Section 409.1.4, Valves in CSST installations: add to read as follows:

409.1.4 Valves in CSST installations. Shutoff valves installed with corrugated stainless steel (CSST) piping systems shall be supported with an approved termination fitting, or equivalent support, suitable for the size of the valves, of adequate strength and quality, and located at intervals so as to prevent or damp out excessive vibration but in no case greater than 12-inches from the center of the valve. Supports shall be installed so as not to interfere with the free expansion and contraction of the system's piping, fittings, and valves between anchors. All valves and supports shall be designed and installed so they will not be disengaged by movement of the supporting piping.

Section 410.1; Pressure regulators: add a second paragraph and exception to read as follows:

Access to regulators shall comply with the requirements for access to appliances as specified in Section 306.

Exception: A passageway or level service space is not required when the regulator is capable of being serviced and removed through the required attic opening.

Section 614.6, Domestic clothes dryer exhaust ducts: add a sentence to read as follows:

The size of duct shall not be reduced along its developed length nor at the point of termination.

Section 621.2, Prohibited use: change to read as follows:

621.2 Prohibited use. One or more unvented room heaters shall not be used as the sole source of comfort heating in a dwelling unit.

Exception: Existing approved unvented heaters may continue to be used in dwelling units, in accordance with the code provisions in effect when installed, when approved by the Building Official unless an unsafe condition is determined to exist as described in Section 108.7.

Section 624.1.1, Installation requirements: change to read as follows:

624.1.1 Installation requirements. The requirements for water heaters relative to access, sizing, relief valves, drain pans and scald protection shall be in accordance with the International Plumbing Code.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-84–14-100 Reserved

ARTICLE VI. INTERNATIONAL MECHANICAL CODE AMENDMENTS/ADMINISTRATION*(27)

Sec. 14-101 Adoption; International Mechanical Code

The International Mechanical Code, 2009 edition, as published by the International Code Council is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-102 Administration of mechanical code

The mechanical code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-103 Amendments

The International Mechanical Code, 2009 edition, adopted in section 14-101 of this article, shall be amended as follows:

Section 102.8, Referenced codes and standards: change to read as follows:

> 102.8 Referenced codes and standards. The codes and standards referenced herein shall be those that are listed in Chapter 15 and such codes, when specifically adopted, and standards shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted.

Sections 106.5.2, Fee schedule and 106.5.3, Fee refunds: change to read as follows:

> 106.5.2 Fee schedule. See approved fee schedule (Euless Code of Ordinances Chapter 30).
>
> 106.5.3 Fee refunds. The building official shall establish a policy for authorizing the refunding of fees. (delete balance of section)

Section 304.6, Public garages: is deleted.

Section 306.3, Appliances in attics: change to read as follows:

306.3. Appliances in attics. Attics containing appliances requiring access shall be provided...{bulk of paragraph unchanged}...from the opening to the appliance. The passageway shall have continuous unobstructed solid flooring not less than 30 inches (762 mm) wide and shall be not less than 1/2" plywood or 5/8" wafer board. A level service space not less than 30 inches (762 mm) deep and 30 inches (762 mm) wide shall be present at the front or service side of the equipment. The clear access opening dimensions shall be a minimum of 20 inches by 30 inches (508 mm by 762 mm), or larger where such dimensions are not large enough to allow removal of the largest appliance. As a minimum, access to the attic space shall be provided by one of the following:

1. A permanent stair.

2. A pull down stair.

3. An access door from an upper floor level.

4. Access Panel may be used in lieu of items 1, 2 and 3 with prior approval of the code official due to building conditions.

Exception: The passageway and level service space are not required where the appliance is capable of being serviced and removed...(remainder of section unchanged).

A receptacle outlet shall be provided at or near the equipment and appliance location within 25 feet and in accordance with the Electrical Code.

Section 306.5, Equipment and appliances on roofs or elevated structures: change to read as follows:

306.5 Equipment and appliances on roofs or elevated structures. Where equipment and appliances requiring access are installed on roofs or elevated structures at an aggregate height exceeding 16 feet (4877 mm), such access shall be provided by a permanent approved means of access. Permanent exterior ladders providing roof access need not extend closer than 12 feet (2438 mm) to the finish grade or floor level below and shall extend to the equipment and appliance's level service space. Such access shall...{bulk of section to read the same}...on roofs having a slope greater than 4 units vertical in 12 units horizontal (33-percent slope)....(remaining language unchanged).

A receptacle outlet shall be provided at or near the equipment and appliance location within 25 feet and in accordance with the Electrical Code.

Section 306.5.1, Sloped roofs: change to read as follows:

306.5.1 Sloped roofs. Where appliances, equipment, fans or other components that require service are installed on roofs having slopes greater than 4 units vertical in 12 units horizontal and having an edge more than 30 inches (762 mm) above grade such edge, a

catwalk at least 16 inches in width with substantial cleats spaced not more 16 inches apart shall be provided from the roof access to a level platform at the appliance. The level platform shall be provided on each side of the appliance to which access is required for service or repair or maintenance. The platform shall be not less than 30 inches (762 mm) in any dimension and shall be provided with guards. The guards shall extend not less than 42 inches (1067 mm) above the platform, shall be constructed so as to prevent the passage of a 21-inch diameter (533 mm) sphere and shall comply with the loading requirements for guards specified in the International Building Code.

Sections 306.6, Water heaters above ground floor: add to read as follows:

306.6; Water heaters above ground floor. When the mezzanine or platform in which a water heater is installed is more than (8) feet (2438 mm) above the ground or floor level, it shall be made accessible by a stairway or permanent ladder fastened to the building.

Exception: A max 10 gallon water heater is capable of being accessed through a lay-in ceiling and a water heater is installed is not more than ten (10) feet (3048 mm) above the ground or floor level and may be reached with a portable ladder.

306.6.1; Whenever the mezzanine or platform is not adequately lighted or access to a receptacle outlet is not obtainable from the main level, lighting and a receptacle outlet shall be provided in accordance with Section 306.3.1.

Section 307.2.2, Drain pipe materials and sizes: change to read as follows:

307.2.2 Drain pipe materials and sizes. Components of the condensate disposal system shall be copper or CPVC pipe or tubing. All components shall be selected for the pressure, temperature, and exposure rating of the installation. {Remainder unchanged}

Section 307.2.3, Auxiliary and secondary drain systems: change item 2 to read as follows:

2. A separate overflow drain line shall be connected to the drain pan provided with the equipment. Such overflow drain shall discharge to a conspicuous point of disposal to alert occupants in the event of a stoppage of the primary drain. The overflow drain line shall connect to the drain pan at a higher level than the primary drain connection. However, the conspicuous point shall not create a hazard such as dripping over a walking surface or other areas so as to create a nuisance.

Section 403.2.1, Recirculation of air: add item 5 to read as follows:

5. Toilet rooms within private dwellings that contain only a water closet, lavatory or combination thereof may be ventilated with an approved mechanical recirculating fan or similar device designed to remove odors from the air.

Section 501.2, Exhaust discharge: change to read as follows:

501.2 Exhaust discharge. The air removed by every mechanical exhaust system shall be discharged outdoors to a point where it will not cause a nuisance and not less than the distances specified in Section 501.2.1. The air shall be discharged to a location from

which it cannot be readily drawn in by a ventilating system. Air shall not be exhausted into an attic or crawl space or soffit.

Exceptions:

1. Whole house ventilation-type attic fans shall be permitted to discharge into the attic space of dwelling units having private attics.

2. Commercial cooking recirculating systems.

3. Toilet room exhaust ducts may terminate in a warehouse or shop area when infiltration of outside air is present.

Section 504.6, Domestic clothes dryer ducts: add a sentence to read as follows:

The size of duct shall not be reduced along its developed length or at the point of termination.

Section 607.5.1, Fire walls: change to read as follows:

607.5.1 Fire Walls. Ducts and transfer openings permitted in fire walls in accordance with Section 705.11 of the International Building Code shall be protected with approved fire dampers installed in accordance with their listing. For hazardous exhaust systems see Section 510.1–510.9 IMC.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-104–14-120 Reserved

ARTICLE VII. INTERNATIONAL ENERGY CONSERVATION CODE AMENDMENTS/ADMINISTRATION*(28)

Sec. 14-121 Adoption; International Energy Conservation Code

The International Energy Conservation Code, 2009 edition, as published by the International Code Council is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-122 Administration of energy conservation code

The energy conservation code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-123 Amendments

The International Energy Conservation Code, 2009 edition, adopted in Sec. 14-121, shall be amended as follows:

Section 101.2, Historic buildings: change to read as follows:

> 101.4.2 Historic buildings. Any building or structure that listed in the State or National Register of Historic Places; designated as historic property under local or state designation law or survey; certified as a contributing resource with a National Register listed or locally designated historic district; or with an opinion or certification that the property is eligible to be listed on the National or State Registers of Historic Places either individually or as a contributing building to a historic district by the State Historic Preservation Officer of the Keeper of the National Register of Historic Places, shall comply with all of the provisions of this code.
>
> > Exception: Whenever a provision or provisions shall invalidate or jeopardize the historical designation or listing, that provision or provisions may be exempted.

Section 103.1.1, Alternative compliance: add to read as follows:

> 103.1.1 Alternative compliance. A building certified by a national, state, or local accredited energy efficiency program and determined by the Energy Systems Laboratory to be in compliance with the energy efficiency requirements of this section may, at the option of the Building Official, be considered in compliance. The United States Environmental Protection Agency's Energy Star Program certification of energy code equivalency shall be considered in compliance.

Section 202, General Definitions: add the definition of Glazing Area to read as follows:

> GLAZING AREA: Total area of the glazed fenestration measured using the rough opening and including sash, curbing or other framing elements that enclose conditioned space. Glazing area includes the area of glazed fenestration assemblies in walls bounding conditioned basements. For doors where the daylight opening area is less than 50 percent of the door area, the glazing area is the daylight opening area. For all other doors, the glazing area is the rough opening area for the door including the door and frame.

Section 401.2, Compliance: change item 1 to read as follows:

> 1. Sections 402.1 through 402.3, 403.2.1 and 404.1 (prescriptive) and the use of Tables 402.1.1 and 402.1.3 are limited to a maximum glazing area of 15% window area to floor area ratio; or
>
> 2. (language unchanged)

Section 402.2.12, Insulation installed in walls: add to read as follows:

> Section 402.2.12 Insulation installed in walls. Insulation batts installed in walls shall be totally surrounded by an enclosure on all sides consisting of framing lumber, gypsum, sheathing, wood structural panel sheathing or other equivalent material approved by the

building official.

Section 405.4.1, Compliance software tools: add the following sentence to the end of paragraph:

RemRate[tm], Energy Gauge[tm], and IC3 are deemed acceptable performance simulation programs.

(Ord. No. 1942, § I, 1-24-12)

Secs. 14-124–14-140 Reserved

ARTICLE VIII. NATIONAL ELECTRICAL CODE AMENDMENTS/ADMINISTRATION*(29)

Sec. 14-141 Adoption; National Electrical Code

The National Electrical Code, 2011 edition, as published by the NFPA is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such code shall be fully applicable and binding.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-142 Administration and enforcement of the electrical code

The electrical code of the city shall be administered and enforced by the office of the building official or his designee.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-143 Amendments

The National Electrical Code, 2011 Edition, adopted in section 14-141 of this article, shall be amended as follows:

Section 90-4.1: add to read as follows:

The fees to be charged for any electrical work in the city shall be in accordance with Euless Code of Ordinances chapter 30. There shall be a reinspection fee, as set forth in chapter 30, where it is necessary for the electrical inspector to reinspect any phase of an electrical job.

Article 100, Part I, General: change the definition of Intersystem Bonding Termination to read as follows:

Intersystem Bonding Termination. A device that provides a means for connecting bonding conductors for communication systems and other systems such as metallic gas piping systems to the grounding electrode system.

Article 110.2, Approval: change to read as follows:

110.2 Approval. The conductors and equipment required or permitted by this Code shall be acceptable only if approved. Approval of equipment may be evident by listing and labeling of equipment by a Nationally Recognized Testing Lab (NRTL) with a certification mark of that laboratory or a qualified third party inspection agency approved by the AHJ.

Exception: Unlisted equipment that is relocated to another location within a jurisdiction or is field modified is subject to the approval by the AHJ. This approval may be by a field evaluation by a NRTL or qualified third party inspection agency approved by the AHJ.

Manufacturer's self-certification of any equipment shall not be used as a basis for approval by the AHJ.

Article 230.2(A): add a seventh special condition as follows:

(7) In supplying electrical service to multifamily dwellings, two or more laterals or overhead service drops shall be permitted to a building when both of the following conditions are met:

a. The building has six or more individual gang meters and all meters are grouped at the same location.

b. Each lateral or overhead service drop originates from the same point of service.

Article 230.70(A)(1), Readily Accessible Location: change to read as follows:

The service disconnecting means shall be installed at a readily accessible location outside the building or structure within a maximum of 5 feet of the service conductors.

Article 230.71(A), General: add an exception to read as follows:

230.71 Maximum Number of Disconnects.

Exception: Multi-occupant Buildings. Individual service disconnecting means is limited to six for each occupant. The number of individual disconnects at one location may exceed six.

Article 240.91, Protection of Conductors: is deleted.

Article 250.52(A), Electrodes Permitted for Grounding: add a paragraph to read as follows:

250.52 Grounding Electrodes.

(A) Electrodes Permitted for Grounding.

Where a metal underground water pipe, as described in item (1), is not present, a method of grounding as specified in (2) through (4) below shall be used.

Article 300.1, Scope: add section (D) to read as follows:

(D) (1) Electric wiring installed within the city shall be no less than nonmetallic cable. Aluminum wiring shall not be used in any installation except for the service entrance conductors and to the service main control cutoff equipment to the premises wiring system.

(2) No electrical panels or plastic electrical boxes shall be mounted on the opposite sides of the walls around bath tubs and shower enclosures, and romex in such locations shall be enclosed in metal conduit around bath areas.

(3) Smoke detectors (alarms) GFCI and AFI protection shall be updated at time of service upgrade or remodel.

Article 300.11(A)(1), Fire-Rated Assemblies: change to read as follows and delete exceptions:

(1) Fire-Rated Assemblies. Wiring located within the cavity of a fire-rated floor-ceiling or roof-ceiling assembly shall not be secured to, or supported by, the ceiling assembly, including the ceiling support wires unless tested as part of a fire-rated assembly. An independent means of secure support...{text unchanged}...are part of the fire-rated design.

delete exception

Article 300.11(A)(2), Non-Fire-Rated Assemblies: change to read as follows:

(2) Non-Fire-Rated Assemblies. Wiring located within the cavity of a non-fire-rated floor-ceiling or roof-ceiling assembly shall not be secured to, or supported by, the ceiling assembly, including the ceiling support wires unless authorized by, and installed in accordance with, the ceiling system manufacturer's instructions. An independent means of secure support shall be provided.

Exception: From the last point of independent support or base for connections within an accessible ceiling to luminaire(s) (lighting fixture(s)) or equipment, branch circuit or fixture whip wiring shall be allowed to be supported by the ceiling support wires.

Article 310.15(B)(6), Grounding or Bonding Conductor: change to read as follows:

(6) 120/240-Volt, 3-Wire, Single-Phase Dwelling Services and Feeders. For dwelling units, conductors, as listed in Table 310.15(B) (6), shall be...{text unchanged}...provided the requirements of 215.2, 220.22, and 230.42 are met. This Article shall not be used in conjunction with 220.82.

Article 330.2, Metal-Clad Cable, Type MC: add a second sentence to read as follows:

All metal clad cable installations shall install insulated bushings such as red devils.

Article 334.10, Uses Permitted: change to read as follows:

334.10. Uses Permitted. Type NM, Type NMC, and Type NMS cables shall be permitted to be used in the following:

(1) One- and two-family dwellings.

(2) In any multifamily dwelling not exceeding three floors above grade.

(3) Other structures not exceeding 3 stories in height.

Note: In par. 2 & 3 above: For the purpose of this article, the first floor of a building shall be that floor that has 50 percent or more of the exterior wall surface area level with or above finished grade. One additional level that is the first level and not designed for human habitation and used only for vehicle parking, storage, or similar use shall be permitted.

Article 334.12, Uses Not Permitted: add section (11) to read as follows:

(11) In non-residential metal frame structures.

Article 500.8(A)(3), Suitability: change to read as follows:

500.8 Equipment. Articles 500 through 504 require equipment construction and installation standards that ensure safe performance under conditions of proper use and maintenance.

(A) Suitability. Suitability of identified equipment shall be determined by one of the following:

(1) Equipment listing or labeled.

(2) Evidence of equipment evaluation from a qualified testing laboratory or inspection agency concerned with product evaluation.

(3) Evidence acceptable to the authority having jurisdiction such as a manufacturer's self-evidence or an engineering judgment signed and sealed by a qualified Licensed Professional Engineer.

Article 505.7(A),Implementation of Zone Classification System: changed to read as follows:

505.7 Special Precaution. Article 505 requires equipment construction and installation that ensures safe performance under conditions of proper use and maintenance.

(A) Implementation of Zone Classification System. Classification of areas, engineering and design, selection of equipment and wiring methods, installation, and inspection shall be performed by a qualified Licensed Professional Engineer.

Article 680.25(A)(1), Feeders: changed to read as follows:

680.25 Feeders. These provisions shall apply to any feeder on the supply side of panelboards supplying branch circuits for pool equipment covered in Part II of this article on the load side of the service equipment or the source of a separately derived system.

(A) Wiring Methods.

(1) Feeders. Feeders shall be installed in rigid metal conduit or intermediate conduit. The following wiring methods shall be permitted if not subject to physical damage.

(a) Liquidtight flexible nonmetallic conduit

(b) Rigid polyvinyl chloride conduit

(c) Reinforced thermosetting resin conduit

(d) Electrical non metallic tubing where installed on or within a building

(e) Electrical nonmetallic tubing where installed within a building

(f) Type MC cable where installed within a building and if not subject to corrosive environment

(g) Nonmetallic-sheathed cable

(h) Type SE cable.

Article 700.17.1, Wiring of Emergency Light Fixtures: add to read as follows:

700.17.1 Wiring of Emergency Light Fixtures.

(A) Battery pack fixtures must be wired to the normal lighting circuit where they are installed. The battery pack shall be tied onto the hot leg of the room switch. Where room switches are not provided and lights are turned off at the breaker switch, it shall be necessary to provide a light switch at the breaker control panel, wiring the fixtures as previously described. Permanent identification of a RED circular mark at the breaker located in the electrical panel box.

(B) Where battery pack florescent fixtures are installed on a security light circuit which remains on at all times, it is not necessary to wire through a control switch provided the breaker is locked in the on position. All other installations shall be wired in the same manner as battery pack incandescent fixtures.

(C) Where large open areas are lighted with two or more circuits, it shall be necessary to wire each emergency light fixture to the nearest lighting circuit.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-144 Right of entry

The building official or his designee shall have the power to enter any building, structure, alley, lot, manhole or subway during reasonable hours, and while in the actual performance of his regular duties he shall have the power to cause the arrest of any person violating any provisions of this article.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-145 Hindering inspectors prohibited

No person shall hinder or prevent the building official or his designee from making any electrical inspection.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-146 Power to disconnect service

The building official or his designee is hereby empowered to disconnect or order the public utility company serving electrical energy to sever the electrical service to such wiring, device and/or materials found to be defectively installed until the installation of such wiring, device and material has been made safe as directed by the electrical inspector. Any person ordered and notified in writing to discontinue any electrical service shall do so within 24 hours; where the city electrical inspector has determined such conditions to be an immediate threat to life safety, service shall be terminated immediately, and such person shall not reconnect electrical service or allow it to be reconnected until notified by the city electrical inspector.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-147 Approval of inspector required before reconnecting service; exception

When service is disconnected to any building used for commercial or mercantile purposes, theaters, gasoline stations and garages, approval must be obtained from the city electrical inspector before reconnecting to the electrical energy. Provided, however, where service is terminated for nonpayment of bill, it shall not be necessary to obtain city approval for reconnecting.

(Ord. No. 1942, § I, 1-24-12)

Sec. 14-148–14-160 Reserved

ARTICLE IX. INTERNATIONAL PROPERTY MAINTENANCE CODE

Sec. 14-161 Adoption

The International Property Maintenance Code, 2003 Edition, as published by the International Code Council is hereby adopted by reference. Unless deleted, amended, expanded or otherwise changed herein, all provisions of such Code shall be fully applicable and binding.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-162 Administration and enforcement of the International Property Maintenance Code

The International Property Maintenance Code of the city shall be administered and enforced by the office of the building official.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-163 Amendments

Section 101.3. change to read as follows:

> This code shall...(text unchanged)...occupancy shall comply with the International Building, Residential, Plumbing, Mechanical, Fuel Gas, Energy Conservation, Fire and National Electric Code as adopted by the City.

Section 102.3: delete.

Section 201.3. Delete the following:

> International Zoning Code, International Existing Building Code and International Electric Code.

Section 202 Definitions. Change to read as follows:

> Code Official. The Building Official..(text unchanged).. or any duly authorized representative.

Section 302.9. Change to read as follows:

> No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building or fence on any private or public property by placing thereon any marking, carving or graffiti.

Section 304.3. Add to sentence:

> Numbers shall be minimum of 4" for Residential and 8" lighted for Commercial.

(Ord. No. 1644, § I, 8-31-04)

Secs. 14-164–14-180 Reserved

ARTICLE X. MINIMUM HOUSING CODE*(30)

Division 1. Generally

Sec. 14-181 Short title

This article shall be known as the “Minimum Housing Code.”

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-182 Legislative finding of fact

It is found and declared that there exists in the city structures used for human habitation which are, or may become in the future, substandard with respect to structure, equipment or maintenance, and further that such conditions, together with inadequate provision for light and air, insufficient protection against fire hazards, lack of proper heating, unsanitary conditions, and/or overcrowding, constitute a menace to the health, safety, welfare, and reasonable comfort and/or quality of life of its citizens. It is further found and declared that the existence of such conditions, factors or characteristics will, if not remedied, create slum and blighted areas requiring large-scale clearance; and further that, in the absence of corrective measures, such areas will experience a deterioration of values, a curtailment of investment and tax revenue, and an impairment of economic values. It is further found and declared that the establishment and maintenance of minimum structural and environmental standards are essential to the prevention of blight and decay and the safeguarding of public health, safety, and general welfare.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-183 Purpose

The purpose of this article is to protect the public health, safety, and welfare of the citizens of the city by establishing minimum standards governing the construction, use, occupancy, management, operation and maintenance of multifamily dwelling complexes, establishing minimum standards governing utilities, facilities, and other physical components and conditions essential to make multifamily dwelling complexes and apartments safe, sanitary, and fit for human use and habitation; fixing certain responsibilities and duties of owners, property managers and occupants of multifamily dwelling complexes; authorizing and establishing procedures for the inspection of multifamily dwelling complexes and the condemnation and vacation of those multifamily dwelling complexes unfit for human use, occupancy and habitation and fixing penalties for the violation of the provisions of this article. This article is declared to be remedial and essential to the public interest, safety, health and welfare, and it is intended that this article be liberally construed to effectuate the purposes as stated above. Further, it is declared that it is not the purpose of this article that it shall be used as an instrument for the harassment of any persons, nor is it the intent of this article to mandate the closure of any multifamily dwelling complex, but rather to ensure compliance with the minimum standards essential to protect the public, health, safety and welfare of the citizens of the city.

(Ord. No. 1975, § I, 11-13-12; Ord. No. 1998, § 1, 6-25-13)

Sec. 14-184 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrator means the chief of police or his designee.

Apartment means a room or suite of rooms in a multifamily dwelling complex that is arranged, designed or occupied as a residence by a single-family, individual or group of individuals.

Apartment inspection program manager means the administrator's designee responsible for the day to day administration of the apartment inspection program and enforcement of the provisions of this article.

Bathroom means an enclosed space containing one or more bathtubs, showers, or both, and which may also include toilets, lavatories or fixtures serving similar purposes.

Bedroom means a room used or intended to be used for sleeping purposes and not as a kitchen, bathroom, living room, closet, hallway, utility space, entry way, garage, patio or breezeway.

City means the City of Euless.

Code compliance means a department within the City of Euless responsible for the apartment inspection program.

Current building code means the most recent building code as amended in effect in the city on any date, now or in the future, on which the dwelling unit is or could be occupied.

Duplex means a single-family attached dwelling unit.

Dwelling means a structure occupied for residential purpose.

Dwelling unit means any room or group of rooms occupied, or which is intended or designed to be occupied, as the home or residence of one individual, group of individuals, family or household, for housekeeping purposes. A dwelling unit shall include an apartment.

Efficiency unit means the equivalent of a one-bedroom unit.

Floor area means the total area of all habitable space.

Garbage means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

Habitable room means a room or enclosed floor area used or designed to be used for living, sleeping, cooking or eating purposes, not including bathrooms, laundries, pantries, foyers or communicating corridors, closets and storage spaces.

Habitable space means the space occupied by one or more persons while living, sleeping, eating, and cooking; excluding kitchenettes, bathrooms, toilet rooms, laundries, pantries, dressing rooms, closets, storage spaces, foyers, hallways, utility rooms, heater rooms, boiler rooms, and basement or cellar recreation rooms.

Infestation means the presence, within or contiguous to a dwelling unit or apartment, of insects,

rodents, vermin, or other pests.

Kitchen means space used for cooking or preparation of food and deemed habitable space.

Landlord means the owner, property manager or resident manager of an apartment building, or any other person held out by any owner or property manager as the appropriate person with whom the tenant normally deals concerning the rental agreement or apartment building.

License means a multifamily dwelling complex annual license issued upon registration of the complex and valid for 12 months.

License and inspection(s) fee. Refer to section 30-42 for fee schedule.

Multifamily dwelling complex or complex means any building or group of buildings which provide three or more dwelling units on a single platted lot, or, if the land on which the building or buildings is located is unplatted on a contiguous tract of land under a common ownership.

Occupant means any person living or sleeping in, or having actual possession of a dwelling unit or apartment.

Owner means a person claiming, or in whom is vested, the ownership, dominion, or title of real property, including but not limited to:

(1) The owner of a fee simple title;

(2) The holder of a life estate;

(3) The holder of a leasehold estate for an initial term of five years or more;

(4) The buyer in a contract for deed; and

(5) A mortgagee, receiver, executor, or trustee in control of real property, but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

Person includes an individual, corporation, business trust, estate, partnership or association; two or more persons having a joint or common interest; or any other legal or commercial entity.

Plumbing includes all of the following supplied facilities, equipment and devices: gas pipes, water pipes, toilets, lavatories, sinks, laundry tubs, catchbasins, wash basins, bathtubs, shower baths, sewer pipes and sewerage system, septic tanks, drains, vents, traps, and any other fuel-burning or water-using fixtures and appliances, including private fire hydrants, together with all connections to water, waste and sewer or gas pipes.

Premises means a lot, plot or parcel of land, including any structures thereon.

Primary inspection means the inspection performed that establishes a score from which a tier designation is assigned.

Property maintenance inspection report means the report issued to the landlord that provides a

description of the code violations identified during the primary inspection(s) and the score.

Property manager means a person who has managing control of real property.

Refuse means all putrescible and nonputrescible solid wastes, except body wastes, including but not limited to: garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles, and solid, market and industrial wastes.

Resident manager means a property manager or agent of a property manager who resides in the apartment complex.

Retail electric provider means the company that sells and provides electricity, customer and billing services.

Rubbish means nonputrescible solid wastes consisting of both combustible and noncombustible wastes, such as paper, wrapping, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

Score means the record of points deducted from a scale of 100, based on the number of violations identified during a primary inspection and from which a tier designation is assigned to the multifamily complex by the apartment inspection program manager.

Secondary inspection means an inspection performed following the primary inspection(s) to determine compliance with minimum housing code(s).

Single location means property held in common ownership that is compact and contiguous property separated only by public streets.

Standard operating procedures means the objective guidelines followed by the apartment inspection program manager to calculate the score.

Structure means that which is built or constructed; an edifice or building of any kind; or any piece of work artificially built up or composed of parts joined together in some definite manner.

Tenant means any person who occupies a dwelling unit for living or dwelling purposes with the landlord’s consent.

Tier designation means the tier designation assigned by the apartment inspection program manager that establishes the conditions applicable to the continued operation of the complex and the number of secondary inspections that will be performed during the subsequent 12-month period of time.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-185 Overview

(1) Periodic primary inspections will be performed at all multifamily dwelling complexes in the city as provided in this article. The primary inspection will be conducted by or under the supervision of the apartment inspection program manager.

(2) The purpose of the primary inspection is to identify the existence of any violations of this Code or any other city codes in order to determine what improvements need to be made to the property.

(3) Pursuant to the primary inspection, the apartment inspection program manager will calculate the score for the complex from a starting total of 100 points. Points shall be deducted for violations of city standards discovered during the inspection. The score will determine in which of three tiers the complex belongs. The tier designation will establish the number of secondary inspections that are required during the subsequent 12-month period. To ensure objectivity and fairness, the above-referenced point deductions will be based on standard operating procedures of the apartment inspection program manager.

(4) A tier 1 designation indicates that the complex is in superior condition and that no secondary inspections are required to be performed at that complex during the subsequent two-year period. A tier 2 designation indicates that the complex has a moderate number of violations and that one secondary inspection is required during the subsequent 12-month period. A tier 3 designation indicates that the complex has a high number of violations and that three secondary Inspections are required during the subsequent 12-month period.

(5) A primary inspection shall be performed annually on each multifamily dwelling complex that does not receive a tier 1 designation. Those multifamily dwelling complexes that receive a tier 1 designation shall be subject to a Primary Inspection once every three years.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-186 Penalty

Any person violating the terms and provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Any such violation shall be deemed a violation of a provision governing public health and sanitation under said section 1-12 of this Code.

(Ord. No. 1975, § I, 11-13-12)

Secs. 14-187–14-190 Reserved

Division 2. License

Sec. 14-191 Applicability and administration

(1) This article shall apply to all multifamily dwelling units and complexes located in the city.

(2) The apartment inspection program manager is authorized to administer and enforce provisions of this article.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-192 License requirements/change in ownership

(1) No multifamily dwelling complex may be operated within the city without a license. The landlord of a complex shall apply for a license with code compliance. A license shall be valid for 12 months upon issuance and must be renewed on an annual basis.

(2) The landlord of a multifamily dwelling complex shall make application for a license within 30 days after the property maintenance inspection report is issued to the landlord.

(3) The landlord of a multifamily dwelling complex that is not subject to a primary inspection during the subsequent 12 months shall make application for renewal of the license within 30 days of the license renewal date.

(4) Upon a change in ownership, the new landlord of the complex shall have 30 days from the date of the change of ownership to file an application for a new license with code compliance. A change in ownership occurs when over 50 percent of the interest in the complex is transferred to a different person.

(5) License applications received more than 30 days after the renewal date has expired or the property maintenance inspection report has been issued or an ownership change has occurred shall be assessed a late fee.

(6) The landlord must be current with any and all fees, taxes, and assessments owed to the city prior to the issuance or renewal of a license.

(7) Continued maintenance and observance of the standards contained in this article are conditions that shall be complied with in order to retain a license and to obtain any renewal of a license.

(8) All city building, electrical, plumbing, heating, air conditioning, health, zoning, fire safety and other applicable ordinances not specifically identified in the main body of this article shall be complied with at all times.

(9) In the event that a valid license is not maintained, the city retains the right to revoke the certificate of occupancy.

(10) The license shall be on a form prescribed by code compliance and shall at a minimum contain the following information about the complex:

a. The trade name, physical address, business mailing address, e-mail address(es), and related website(s), telephone numbers, total number of units;

b. The names of designated employees or authorized representatives who shall be assigned to respond to emergency conditions and a telephone number where said employees can be contacted during any 24-hour period. Emergency conditions shall include fire, natural disaster, flood, burst pipes, collapse hazard and violent or property crime;

c. The names, addresses, e-mail address(es), and related website(s), telephone

numbers, of the property owner, property manager, resident manager, registered agent, all federal, state, and local funding agencies; and the type of business entity which owns the complex;

d. The names, addresses, e-mail address(es), and related website(s), telephone numbers, of the retail electric provider(s) in order to contact the appropriate person/entity for disconnect of public utility service;

e. The names, addresses, e-mail address(es), and related website(s), telephone numbers, of any mortgage lienholders;

f. The number of buildings, number of units per building broken down as to number of efficiencies, one-bedroom, two-bedroom, and three-bedroom; number of other buildings including the washateria, clubhouse, office, etc.;

g. The trade name of the complex. It shall be unlawful for any person to use or permit to be used more than one trade name at a single location.

h. Acknowledgment of receipt of copy of the "Minimum Housing Code Ordinance" and agreement to abide by the code as a condition to receiving and maintaining a license.

(11) A landlord commits an offense and the license to operate may be revoked if the landlord:

a. Operates a multifamily dwelling complex which is not currently licensed with code compliance;

b. Fails to pay fees as required by this article;

c. Maintains a property in violation of this article;

d. Commits any other violation of this article.

(12) It shall be unlawful for any person to own, operate, manage or maintain a multifamily complex in the city without a current license having been issued for each complex. Any person owning, operating, managing or maintaining a complex at more than one location shall obtain a license for each separate location.

(Ord. No. 1975, § I, 11-13-12; Ord. No. 1998, § 1, 6-25-13)

Sec. 14-193 License, primary inspection, secondary inspection, and reinspection fees

(1) No license shall be issued until all prerequisites have been met.

(2) At the time the landlord makes application for a license for the multifamily dwelling complex, the landlord shall pay the prescribed fee(s) to offset the city's cost of administration and registration. The license fee paid by the landlord will be based on the number of units contained in the complex. A washateria, clubhouse, workout facilities, etc., will be counted as a unit.

(3) The landlord shall pay the primary inspection fee(s) and secondary inspection fee(s) which will be based on the tier designation assigned to the complex in the property maintenance inspection report to offset the city's cost of administration and performance of inspections.

(4) Should the license and inspection fee(s) payment be made by check or other instrument which is not honored, the license for which the payment (s) was made shall become null and void without additional action by city.

(5) The applicable license and inspection fees shall be set forth in section 30-42, "minimum housing licensing and related fees."

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-194 Noncompliance; enforcement

(1) Upon failure to comply with the terms of this article after receipt of written notice from the apartment inspection program manager setting out the violation(s) and the time allowed to rectify the violation(s), the city may, at its discretion, take any or all of the following actions:

a. Prohibit the landlord from reletting any unit in violation of this article that becomes vacant until the violation(s) have been rectified;

b. Impose a penalty upon the owner as provided in section 14-186 of this article.

c. Revoke the owner's certificate of occupancy and the license authorized by this article to operate the entire multifamily dwelling complex.

1. The city will notify the landlord in writing that such authority will be exercised and identify the specific date that the current license to operate will be invalid.

2. The landlord will be required, after receipt of notification from the city, to issue a formal written notice to all tenants at least 60 days before the specific date on which the license to operate becomes invalid stating that all units must be vacated. This written notice shall also be posted prominently in the leasing office.

(2) In addition to the remedies provided in subsection (1) above, the city reserves the right to take any or all of the following actions on any property which is assigned a tier 3 designation in three consecutive primary inspections as contained in the property maintenance inspection reports:

a. Prohibit the landlord from reletting any unit in the multifamily dwelling complex that becomes vacant or renewing any leases for a term that would go beyond the date the license to operate becomes invalid. It shall be a violation of this article for the landlord to rent any unit after notice from the city that such action is prohibited.

b. Direct the fire department, police department, or other appropriate department to conduct safety surveillance and inspections to prevent imminent threats to the health

and safety of residents, at the owner's expense, until the violations have been rectified.

(3) If the city takes any enforcement action that mandates the involuntary relocation of tenants prior to the end of their contractual rental term, the city shall provide reasonable relocation expenses to eligible tenants. The cost of such relocation expenses shall be borne by the landlord. The failure to pay such expenses within 30 days from notice of same shall result in the city placing a lien on the property to secure such repayment.

(Ord. No. 1975, § I, 11-13-12; Ord. No. 1998, § 1, 6-25-13)

Editor's note–Ord. No. 1998, § 1, adopted June 25, 2013, changed the title of § 14-194 from revocation of license/certificate of occupancy to noncompliance; enforcement.

Sec. 14-195 License display, replacement and transferability

(1) Each license issued pursuant to this article shall be posted and displayed in the office of the complex in a conspicuous place to which tenants have access, if an on-site office is provided. If no office exists at the location, a copy of the license shall be given to each tenant upon request.

(2) A replacement license may be issued for one lost, destroyed or mutilated license upon application on the form provided by the apartment inspection program manager.

(3) A license is not assignable or transferable.

(4) The form of the license shall be prepared by the apartment inspection program manager.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-196 License standards for display of maximum density requirements/records maintained of tenants

(1) Notwithstanding the provisions of all other city ordinances, the maximum number of persons per dwelling unit in a multiple-family dwelling complex is as follows:

a. No more than two occupants per each bedroom are permitted to reside in a unit plus one additional occupant. For example: in a one-bedroom or efficiency unit, the density shall not exceed three occupants; in a two-bedroom unit, the density shall not exceed five occupants; in a three-bedroom unit, the density shall not exceed seven occupants.

b. To assist compliance with this requirement, all licensees shall display in a conspicuous place, contiguous to the displayed license, the following notice, the form of which shall be furnished by the city:

CITY OF EULESS IMPOSES THE FOLLOWING MAXIMUM DENSITY REQUIREMENTS:

One-Bedroom or Efficiency Unit - No more than three occupants per unit.
Two-Bedroom - No more than five occupants per unit.
Three-Bedroom - No more than seven occupants per unit.

In the alternative, the licensee may display a similar notice, contiguous to the displayed license that states licensee's density requirements provided the requirements are as strict or stricter than the standards set by subsection (1)a. of this section.

(2) The licensee shall keep a current and up to date record that documents the number of tenants occupying each unit. The records shall be available for review by the administrator during regular working hours and upon receipt of reasonable notice.

(3) It shall be unlawful and a violation of this article for an owner, property manager, resident manager, or other responsible party to knowingly permit or allow a violation of any of the terms of this section. It shall be unlawful for a tenant to violate any of the terms of this section or to permit or allow any persons to reside in the dwelling unit in violation of this section.

(4) Density requirements of subsection (1)a. of this section shall not be applicable to tenants residing in a dwelling unit on the effective date of this article nor during the time these same tenants continue to reside in the same dwelling unit.

(5) An owner shall not be prohibited from establishing a more restrictive density for each dwelling unit within a complex, provided the density is based upon persons per each established bedroom. The established density shall be posted contiguous to the displayed license and shall be on a form provided by the administrator.

(Ord. No. 1975, § I, 11-13-12)

Division 3. Minimum Standards/Responsibilities-Owner and Occupant

Sec. 14-197 Compliance with article provisions

The owner of each multifamily dwelling complex within the city which shall be used for the purpose of human habitation or residence shall comply with the provisions of this article.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-198 Minimum floor area generally

Each dwelling unit shall contain at least 150 square feet of habitable floor area for the first occupant and at least 100 square feet of additional habitable floor area for each additional occupant.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-199 Minimum floor area for sleeping purposes

In each dwelling unit of two or more rooms, each room occupied for sleeping purposes shall contain at least 70 square feet of floor area for one occupant and shall contain an additional 50

square feet of floor area for each additional occupant of the sleeping room.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-200 Maximum density

Maximum density for each dwelling unit (occupant load) shall be as follows:

(1) One bedroom or efficiency unit, no more than three occupants per unit.

(2) Two bedrooms, no more than five occupants per unit.

(3) Three bedrooms, no more than seven occupants per unit.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-201 Ceiling height

At least one-half of the floor area of every habitable room of a dwelling unit shall have a ceiling height of at least seven feet; and the floor area of that part of any room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-202 Minimum responsibilities of owner

The owner, lessor or property manager of a complex shall be primarily responsible for the maintenance, structural soundness and operative condition of the entire complex properties and all installed systems, including but not limited to plumbing, electrical, heating, air conditioning systems and parking areas thereof, and shall be responsible for the following:

(1) Structure.

(2) Water and sewer systems.

(3) Provide in all dwelling units a kitchen sink and a lavatory basin. Such kitchen sink and lavatory shall be connected to the municipal water and sewer systems.

(4) Provide in all dwelling units a flush water toilet and a bathtub or shower connected to the municipal water and sewer systems.

(5) Every kitchen sink, lavatory basin and bathtub or shower in each dwelling unit required by the provisions of this article shall be connected and functioning with both hot and cold water lines. The owner shall provide and maintain connected and functioning water-heating equipment and facilities for every dwelling unit which shall be connected with water lines with a design capability of heating water to a temperature of 120 degrees Fahrenheit as to permit an adequate supply of hot water to be drawn at every required kitchen sink, lavatory basin, and bathtub or shower at

a temperature of not less than 110 degrees Fahrenheit. Such water-heating facilities shall be capable of meeting the requirements of this section regardless of whether or not the heating facilities of the apartment or dwelling unit are in operation.

(6) Air conditioning shall function to at least 15 degrees differential between the inside and outside temperature. If the owner pays the electrical bill, the owner shall provide the required electricity.

(7) Every dwelling unit or apartment with heating facilities shall be provided with a design capability of safely and adequately heating all habitable rooms to a temperature of at least 68 degrees Fahrenheit at a distance of three feet above floor level, and the facilities shall be operable when necessary to maintain the temperature, but gas jets installed prior to 1978 may be provided in lieu of other heating facilities. Where the owner or property manager pays the fuel bills or utilities for the heating equipment, the owner or property manager shall be responsible to provide heat to each dwelling unit. Portable heating equipment, including but not limited to, kerosene heaters, portable propane heaters or portable electric heaters may not be used to meet the requirements of this section other than for temporary emergency uses not to exceed 15 days when the devices are used in accordance with the manufacturer's instructions.

(8) Ensure that every bedroom in a dwelling unit shall have at least one window or opening facing directly to the outdoors capable of being opened to the maximum size allowed by the design of the window fixture.

(9) Repair all cracked or broken out (partial or complete) windows.

(10) All windows must meet the requirements of the current building code, except those which conformed with all applicable laws at the time of their construction and which have been adequately maintained.

(11) Every opening in any dwelling unit which is used for ventilation purposes from a dwelling unit directly to or from outdoor space shall be equipped with insect-proof screening, which shall be provided by the owner and shall be installed and maintained in a manner affording complete protection against entry into the dwelling unit of flies, mosquitoes and other insects. However, it shall be the responsibility of the occupant to replace windows or screens broken by the occupant.

(12) Repair or replace all window screens on openable window(s).

(13) Paint, waterproof and repair to prevent deterioration due to the elements, which shall include but not be limited to: loose siding, siding with holes, excessive cracks or rotted boards which permit air or water to penetrate rooms or the void spaces in walls or other structural components, loose roof covering, holes or leaks in roof which cause damage to the Structure or rooms, rotting, and sagging or deteriorating supports for steps, stairs and porches.

(14) Exterminate insects, rodents or other pests in all occupied and unoccupied units of duplex, triplex or other multiple-family dwellings, a minimum of once a year by a

state-licensed exterminator, and single-family dwellings as needed by the owner or by a state licensed exterminator. If the occupant fails to maintain the dwelling unit free from rodents, insects and vermin, such shall be the ultimate responsibility of owner.

(15) Provide central garbage and refuse disposal where there are more than four dwelling units on the premises

(16) Provide and maintain railings for stairs, steps, balconies, porches, and elsewhere as specified in the building code in force at the time of construction. Replacement of any required railings shall be in compliance with the current edition of the building code. Buildings in existence at the time of adoption of this article may have their existing use continued if such use was legal at the time of the adoption of this article, provided such continued use is not dangerous to life.

(17) Repair holes, cracks, and other defects in stairs, porches, steps and balconies reasonably capable of causing injury to a person.

(18) Maintain floors, walls, ceilings and all supporting structural members in a sound condition, capable of bearing imposed loads safely, in conformity with the current building code.

(19) Repair or replace chimney flue and vent attachments that do not function properly.

(20) Repair holes, breaks, substantial cracks, and loose surface materials that are health or safety hazards in or on floors, walls, ceilings or entry ways, breezeways, sidewalks and similar areas used for foot traffic.

(21) Provide and maintain a moisture-resistant finish or material for the flooring or sub-flooring of each bathroom, shower room, and toilet room.

(22) Provide screened cross-ventilation openings of not less than one and one half square feet for each 25 lineal feet of wall in each basement, cellar, and crawl space.

(23) Eliminate a hole, excavation, sharp protrusion, and other object or condition that exists on the land and is reasonably capable of causing injury to a person.

(24) Securely cover or close a well, cesspool, or cistern.

(25) Provide drainage to prevent standing and stagnant water on the premises. Ponding of water shall not exceed a 24-hour period under normal rainfall periods.

(26) Remove dead trees and tree limbs that are reasonably capable of causing injury to a person.

(27) Connect plumbing fixtures and heating equipment that the owner supplies in accordance with the applicable codes.

(28) Provide and maintain in operating condition supply lines for electrical service to each

dwelling unit intended for human occupancy.

(29) Provide and maintain in operating condition electrical circuits and outlets in compliance with the electrical code adopted by the city.

(30) Connect to a chimney or flue each heating and cooking device that burns solid fuel or burns a fuel that must be vented to the outside.

(31) Maintain the interior of a vacant structure or vacant portion of a structure free from rubbish, garbage, storage and stored items. Secure all vacant or unoccupied dwelling units from unauthorized entry and vandalism.

(32) Install and maintain the parking lot, fire lane and required paved areas, including legible parking stripes and fire lanes, in accordance with city ordinances.

(33) Maintain all required fire detection and extinguishing appliances including but not limited to: smoke detectors, fire alarm systems, fire hydrants and portable fire extinguishers. All dwelling units must be equipped with operable smoke detectors of an approved type. For purposes of this section, the fire marshal and/or building official will have final determination on what items are required based upon the codes in effect at the time the building was built and subsequent applicable changes.

(34) Maintain all swimming pools in a sanitary condition and remove all water and debris from a swimming pool not so maintained or in accordance with other City ordinances.

(35) Provide and maintain all gas service lines to each dwelling unit that is heated by natural gas or has water heating devices or cook stove fueled by natural gas. If the owner pays the gas bill, the owner shall provide necessary gas service.

(36) Remove inoperable, unsightly, junked, unregistered and or abandoned vehicle(s) from the property.

(37) Install and maintain premises identification numbers which shall be eight inches high with a width of one-inch minimum for main buildings and four inches high with a width of one-half inch minimum and for all unit doors a minimum of two inches high.

(38) Provide, in all dwelling units, safe and unobstructed means of egress leading to safe and open space at ground level. When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed. The use of burglar bars or other security devices that prevent an immediate exit from the interior of the dwelling unit is prohibited.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-203 Emergency telephone number

The landlord shall provide to each tenant an emergency telephone number or other means of communications which shall be answered 24 hours each day in order that the tenant may report

needed repairs or emergencies or seek information or answers relative to landlord-tenant matters which cannot wait until regular business hours.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-204 Minimum responsibilities of lease holder

A tenant in a complex shall be responsible for the following:

(1) Shall maintain those portions of the interior of a dwelling unit structure under his control free from rubbish, garbage, and other conditions that would encourage infestation of insects, rodents, and vermin, and unsanitary conditions;

(2) Shall keep occupied area and all plumbing equipment and facilities provided in a clean, sanitary condition at all times;

(3) Shall connect plumbing fixtures and heating equipment that the occupant supplies in accordance with the applicable city codes;

(4) Shall not alter a dwelling unit or its facilities so as to create a nonconformity with division 3 of this article;

(5) Must adhere to reasonable occupancy standards;

(6) Must adhere to all applicable garbage and trash disposal standards; and,

(7) Shall not tamper with any required fire protection apparatus.

(Ord. No. 1975, § I, 11-13-12)

Secs. 14-205–14-220 Reserved

Division 4. Inspections

Sec. 14-221 Primary inspection(s) and secondary inspections–Authorized

(1) The apartment inspection program manager is hereby authorized to make primary inspections and secondary inspections to determine the condition of the complex and premises located within the city in order that city officials may perform their duties of safeguarding the safety, health and welfare of the occupants and of the general public. Inspections may (versus shall) include the presence of the owner's representative.

(2) The owner, resident manager or property manager, as a condition to the issuance of the license required by this article, shall consent and agree to permit and allow the apartment inspection program manager to make the following inspections when and as needed to ensure compliance with this article.

a. The apartment inspection program manager has right and access to inspect all portions of the premises and structures located on the premises.

b. The apartment inspection program manager has right and access to inspect all unoccupied units upon giving reasonable notice to the owner, resident manager or property manager.

(3) The apartment inspection program manager may enforce the provisions of this article upon presentation of proper identification to the occupant in charge of any unit, and may enter, with the occupant's permission, any unit between the hours of 8:00 a.m. and 5:00 p.m.; provided, however, that in cases of emergency where extreme hazards are known to exist which may involve imminent injury to persons, loss of life or severe property damage, the apartment inspection program manager may enter a dwellings unit at any time, and the requirement for presentation of identification and the occupant's permission shall not apply. Whenever the apartment inspection program manager is denied admission to inspect any premises under this provision, inspection shall be made only under authority of a warrant issued by a magistrate authorizing the inspection. In applying for such a warrant, the apartment inspection program manager shall submit to the magistrate an affidavit setting forth their belief that a violation of this article exists with respect to the place sought to be inspected and the reasons for such belief. Such affidavit shall designate the location of such place and the name of the person believed to be the occupant thereof, if known. If the magistrate finds that probable cause exists for an inspection of the premises in question, a warrant may be issued authorizing the inspection, such warrant describing the premises with sufficient certainty to identify the premises. Any warrants issued will constitute authority for the apartment inspection program manager to enter upon and inspect the premises described therein.

(4) A fee shall be charged for a second reinspection due to a noted violation at a previous inspection. Refer to section 30-42, "minimum housing licensing and related fees," for the amount.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-222 Property maintenance inspection report requirements

(1) A landlord will be provided a property maintenance inspection report for all applicable dwelling units within the multifamily dwelling complex within ten business days of the completion of a primary inspection.

(2) The report shall be in written form as prescribed by the apartment inspection program manager.

a. The report shall include places for marking whether the dwelling unit complies with the standards set by this section and shall include the number persons occupying the dwelling unit excluding overnight guests.

b. The property maintenance inspection reports shall be maintained by the landlord for all applicable dwelling units within the multifamily dwelling complex for a minimum of three years.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-223 Right of entry of owner

Every occupant of a dwelling unit shall give the owner thereof, his agent or employee access to any part of such dwelling unit, or its premises, at all reasonable times, for the purpose of making repairs or alteration or for such other purposes as are necessary to effect compliance with the provisions of this article.

(Ord. No. 1975, § I, 11-13-12)

Secs. 14-224–14-240 Reserved

Division 5. Dangerous Dwellings

Sec. 14-241 Abatement of dangerous dwellings

Any dangerous condition in a dwelling unit, apartment, or multifamily dwelling complex regulated by this article shall be subject to abatement in accordance with article XII of this chapter.

(Ord. No. 1975, § I, 11-13-12)

Secs. 14-242–14-250 Reserved

Division 6. Reserved

Secs. 14-251–14-260 Reserved

Division 7. Appeals to the City

Sec. 14-261 Appeals to the City–Apartment inspections; property maintenance inspection report; revocation of license to operate and certificate of occupancy

(1) A landlord may appeal scores or findings contained in the property maintenance inspection report or a decision to revoke the license and/or certificate of occupancy to operate the complex as provided in this section.

(2) An appeal shall be filed with the city manager no later than 15 days following the date the property maintenance inspection report was issued to the landlord. Appeals filed after that date shall be considered untimely and the property maintenance inspection report shall be considered a final determination.

(3) Burden of proof. The applicant shall have the burden of proving to the city manager that the property conditions existing at the time the inspection was performed did not warrant the action taken by the city. The city Manager shall hear the appeal within 30 business days.

(4) The decision of the city manager may be appealed to the zoning board of adjustments pursuant to the provisions in the Unified Development Code section 84-27(10).

(Ord. No. 1975, § I, 11-13-12)

Secs. 14-262–14-274 Reserved

Division 8. Utilities to Master Metered Multifamily Dwelling Complexes

Sec. 14-275 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Essential utility service means gas, electric, water and sanitary sewer.

Master metered multifamily dwelling complex means a multifamily dwelling complex where the occupants are provided one or more utility services for which they do not pay the utility company directly.

Utility company means the entity providing gas, electric service, water or sanitary sewer to a master metered multifamily dwelling complex.

Utility interruption means the termination of utility service to a master metered multifamily dwelling complex by a utility company for nonpayment of billed service or non compliance with an applicable code.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-276 Records of ownership and management maintained by utility companies

(1) Before providing utility service to a new account at a master metered multifamily dwelling complex, a utility company shall obtain:

a. The name and address of the owner or owners of the complex;

b. The name and address of the party responsible for paying the utility bills; and

c. The name and address of any lien holders or mortgagees, if any.

(2) The utility company shall maintain a record of the information obtained under subsection (1) of this section and shall make the information available to the administrator.

(3) The applicant for utility service shall provide the information required in subsection (1) of this section to the utility company.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-277 Notice to tenants

(1) The landlord of a master metered multifamily dwelling complex shall maintain a notice in accordance with subsection (2) of this section containing the name, address and telephone number of the person with authority and responsibility for making payment to the utility

companies for utility bills. The landlord shall correct the notice within ten days of any change in the information given in the notice.

(2) The notice must be made available upon written request from any tenant.

(3) For the purpose of this section, the notice may be placed on the inside of a glass door or window in the property manager's office or a tenant's apartment as long as all requirements of subsection (1) of this section are met.

(4) A person commits an offense if he knowingly removes or mutilates a posted notice required under subsection (1) of this section.

(5) It is a defense to prosecution under subsection (4) of this section if the person was authorized by the landlord to replace the notice in order to correct the information.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-278 Notice of utility interruption

(1) A utility company shall make a reasonable effort, including but not limited to messenger delivery, to provide notice of a pending utility interruption to tenants of a master metered multifamily dwelling complex.

(2) A person commits an offense if he knowingly:

a. Interferes with an employee of a utility company posting notices of a utility interruption at dwelling units of a master metered multifamily dwelling complex; or

b. Removes a notice of utility interruption posted at a dwelling unit of a master metered multifamily dwelling complex.

(3) It is a defense to prosecution under subsection [14-278(2)b.] that the person is the resident of the dwelling unit from which notice was removed.

(4) A utility company providing gas, electricity, water or sanitary sewer shall send to the administrator a copy of each termination of service letter or notice sent to the landlord of a master metered multifamily dwelling complex prior to disconnecting service.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-279 Nonpayment of utility bills; essential utility service

(1) The party responsible for paying utility bills of a master metered multifamily dwelling complex commits an offense if there is failure to pay a utility bill and the nonpayment results in the interruption to any dwelling unit of a utility service essential to the habitability of the unit and to the health of the occupants. Essential utility services are gas, electric, water and sanitary sewer.

(2) The party responsible for paying utility bills of a master metered multifamily dwelling

complex who violates subsection (1) of this section is guilty of a separate offense for each dwelling unit to which utility service is interrupted.

(3) It is a defense to prosecution under this section that the tenant occupying a dwelling unit to which utility service is interrupted is in arrears in rent to the multifamily dwelling complex.

(Ord. No. 1975, § I, 11-13-12)

Sec. 14-280 Notice of violation

(1) When the administrator determines that there is a violation of this article, he shall give notice of the violation to the owner or the person responsible for paying utility bills. The notice must be in writing, specifying the alleged violations and providing a length of time for compliance. Notices shall be effective as follows:

a. Notice to the owner of a multiple-family dwelling complex shall be effective upon placing the notice in the U.S. mail, postage paid and addressed to the name and address shown on the multiple-family dwelling complex application for the current multiple-family dwelling complex license, or by hand delivery.

b. Notice to the owner of a dwelling unit or units which do not constitute a multiple-family dwelling complex shall be effective upon placing the notice in the U.S. mail, postage paid, to the owner's address shown on the latest Tarrant Appraisal District tax roll, or by hand delivery to the owner.

(2) If the owner of the property resides outside the county, the administrator may give notice to the property manager. Upon receipt of a notice of violation, the property manager shall notify the owner of the specifics of the notice of violation and shall make every reasonable effort to have the owner correct the violation.

(3) The administrator has the authority to enforce provisions of this article.

(Ord. No. 1975, § I, 11-13-12)

Secs. 14-281–14-300 Reserved

ARTICLE XI. MOVING BUILDINGS

Division 1. Permit

Sec. 14-301 Required; fees

(a) No person shall move any building or other structure within or through the limits of the city upon the streets, alleys, avenues or public grounds, without first having secured a permit from the building official authorizing such move; provided, no such permit shall be issued for the moving of a structure or building into the city for reconstruction therein unless the owner thereof or his agent first secures a building permit for such construction.

(b) The applicant referenced to in this article as the “mover” shall pay for the permit required by this section a fee as set forth in chapter 30 for each day or fraction thereof that the structure or building is in or on the streets, alleys, avenues or public grounds.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-302 Bond; arrangement with utility companies

Before the permit required by this division is granted by the building official, the party applying therefore shall give a surety bond payable to the city, in the sum of $5,000.00 executed by a surety company authorized to do business in the state, to be approved by the building department, conditioned among other things that such party will save, indemnify and keep harmless the city against all liabilities, judgments, costs and expenses which may in any way accrue against the city in consequence of the granting of the permit. The building official may refuse to issue a removal permit in a case where such work will necessitate the removal or cutting of any wires belonging to a public utility company, or to the city, until such time as the party making application for such permit shall have made satisfactory arrangements with the parties owning or controlling such wires, whether by written agreement or by depositing with such company a sufficient amount of money to cover the cost of such work, for cutting and replacing the wires so moved or cut, to the satisfaction of the parties owning or controlling such wires.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-303 Contents

A permit issued by the building official to a house mover shall state specifically all the conditions to be complied with in moving, shall designate the route to be taken, and shall limit the time for removal.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-304 Denial for dangerous structures

If the chief of police deems it unsafe or dangerous to the public to move any building or other structure over public roads or grounds on account of the condition of such building or structure, no permit shall be issued for such moving.

(Ord. No. 1644, § I, 8-31-04)

Secs. 14-305–14-310 Reserved

Division 2. Regulations

Sec. 14-311 Use of designated route

In no case shall the streets, alleys, avenues or public grounds be used for the purpose of moving a building or structure except on a route designated by the chief of police.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-312 Continuous operation; precautions at night

The removal of a building or other structure under a permit, when commenced, shall be continuous during all the hours of the day, and day by day, and at night if required by the chief of police, until completed, and shall be carried on with the least possible obstruction to the thoroughfares occupied. No building shall be allowed to remain overnight upon any street crossing or intersection, or in such a position as to prevent easy access to any fire hydrant. Caution lighting shall be placed in conspicuous places at each end and in the center of such building on all sides during the night.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-313 Report of position of structure at night

Every mover shall report to the chief of police each night, the exact location the structure is to stand on the streets for the night. Failure to report this shall be considered a violation of this Code.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-314 Clearing obstructions on completion

Upon the expiration of the time named in the permit, or sooner if the use of the streets, alleys, avenues or public grounds are no longer necessary, the mover shall clear such streets, alleys, avenues or public grounds of all obstructions.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-315 Care in carrying out operation

All movers shall proceed in a careful manner with the remove of a building or other structure over a public street, alley, avenue or public grounds and shall not in any manner interfere with the private property of individuals. The director of public works or his designee shall have the power to revoke any permit whenever in his judgment any mover is proceeding in a reckless and careless manner in the removal of a building.

(Ord. No. 1644, § I, 8-31-04)

Sec. 14-316 Repair of streets, etc

Every person receiving a permit from the building official to move a building or other structure shall, within one day after such building or other structure reaches its destination, report that fact to the director of public works or his designee, who shall thereupon inspect the streets, alleys, avenues or public grounds over which such structure has been moved and ascertain the condition thereof. If the removal has caused any damage to the streets, alleys, avenues or public grounds, the mover shall forthwith replace the same in as good repair as they were before the permit was granted. Upon failure to do so within ten days thereafter, to the

satisfaction of the director of public works, he shall cause the damage done to the streets, alleys, avenues or public grounds to be repaired and hold the mover and the sureties of the bonds given by such mover responsible for the payment for such damage.

(Ord. No. 1644, § I, 8-31-04)

Secs. 14-317–14-330 Reserved

ARTICLE XII. ABATEMENT OF DANGEROUS BUILDINGS*(31)

Sec. 14-331 Purpose and scope

(a) Purpose. It is the purpose of this article to provide a just, equitable and practical method, to be cumulative with and in addition to any other remedy provided by the residential code, building code, electrical code, fire code, mechanical code, plumbing code, housing code, property maintenance code, V.T.C.A., Local Government Code, ch. 214, or otherwise available at law, whereby buildings, as defined herein, which from any cause endanger the life, limb, health, property, safety, morals or welfare of the general public or their occupants, may be required to be repaired, vacated, demolished, removed or secured.

(b) Scope. The provisions of this article shall apply to all buildings which are hereinafter defined as dangerous or substandard, whether now in existence or whether they may hereafter become dangerous or substandard.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-332 Definitions

Building code means the International Building Code, as adopted and amended by the city.

Building means and includes any building, fence, awning, canopy, sign, shed, garage, house, tent or other structure whatsoever. The enumeration of specific types of structures shall not be deemed to exclude other types of structures to which the sense and meaning of the provisions hereof in context reasonably have application.

Building official means the officer or other designated authority charged with the administration and enforcement of the chapter and the codes adopted herein, or the building official's duly authorized representative such as deputy building official, building inspector, code enforcement officer, and health officer.

Electric code means the National Electrical Code, as adopted and amended by the city.

Fire code means the International Fire Code, as adopted and amended by the city.

Fire marshal means the fire marshal of the City of Euless or his designee.

Housing and structure board (sometimes referred to as "the board") means the body as designated by the city council for the purpose of hearing appeals under applicable housing and

substandard building codes of the city.

Housing code means article X, Euless Minimum Housing Code, of this chapter, as adopted and amended by the city.

Mechanical code means the International Mechanical Code, as adopted and amended by the city.

Person means any individual, proprietorship, corporation, firm, association, or other legal entity.

Plumbing code means the International Plumbing Code, as adopted and amended by the city.

Property maintenance code means the International Property Maintenance Code, as adopted and amended by the city.

Residential code means the International Residential Code, as adopted and amended by the city.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-333 Enforcement

(a) General.

(1) Administration. The building official is hereby authorized to enforce the provisions of this article. The building official shall have the power to render interpretations of this article and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this article.

(2) Inspections. The building official and the fire marshal are hereby authorized to make such inspections and take such further actions as may be required to enforce the provisions of this article.

(3) Right of entry. When it is necessary to make an inspection to enforce the provisions of this article, or when the building official has a reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this article which makes the building or premises unsafe, dangerous, or hazardous, the building official and his designated assistants may enter the building or premises at reasonable times to inspect or perform the duties imposed by this article, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises are unoccupied, the building official or his designee shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.

(b) Abatement of dangerous or substandard buildings. All buildings or portions thereof which are determined after inspection by the building official to be dangerous or substandard as

defined by this article are hereby declared to be public nuisances and shall be abated by repair, vacation, demolition, removal or securing in accordance with the procedures specified in this article.

(c) Unlawful to violate article. It shall be unlawful for any person, to erect, construct, use, occupy or maintain any building that is deemed herein to be a nuisance or cause or permit the same to be done in violation of this article.

(d) Inspection authorized. All buildings within the scope of this article and all construction or work for which a permit is required shall be subject to inspection by the building official.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-334 Substandard buildings declared

(a) For the purposes of this article, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described shall be deemed to be a substandard building, and a nuisance:

(1) Whenever any building is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare in the opinion of the building official.

(2) Whenever any building, regardless of its structural condition, is unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children.

(3) Any building that is boarded up, fenced or otherwise secured in any manner if:

a. The building constitutes a danger to the public even though secured from entry; or

b. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

(4) Whenever any building, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal to be a fire hazard.

(5) Whenever any building is in such a condition as to create a public nuisance known under common law or in equity jurisprudence.

(6) Whenever any portion of a building remains on a site after the demolition or destruction of the building.

(7) Whenever any building is abandoned so as to make such building or portion thereof an attractive nuisance or hazard to the public.

(8) Any building existing in violation of any provision of the residential code, building code, fire code, plumbing code, mechanical code, electrical code, housing code, or property maintenance code of the city to the extent that the life, health or safety of the public or any occupant is endangered.

(b) For the purposes of this article, any building, regardless of the date of its construction, which has any or all of the conditions or defects hereinafter described to an extent that endangers the life, limb, health, property, safety, morals or welfare of the public or the occupants of the building shall be deemed and hereby is declared to be a substandard building, and a nuisance:

(1) Whenever any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic.

(2) Whenever the walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic.

(3) Whenever the stress in any materials, or members or portion thereof, due to all dead and live loads, is more than one and one half times the working stress or stresses allowed in the building code for new buildings of similar structure, purpose or location.

(4) Whenever any portion of the building has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the building code for new buildings of similar structure, purpose or location.

(5) Whenever any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property.

(6) Whenever any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in the building code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the building code for such buildings.

(7) Whenever any portion of a building has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction.

(8) Whenever the building, or any portion thereof, is likely to partially or completely collapse because of:

a. Dilapidation, deterioration or decay;

b. Faulty construction;

c. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building;

d. The deterioration, decay or inadequacy of its foundation; or

e. Any other cause.

(9) Whenever, for any reason, the building, or any portion thereof, is manifestly unsafe for the purpose for which it is being used.

(10) Whenever the exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one third of the base.

(11) Whenever the building, exclusive of the foundation, shows 33 percent or more damage or deterioration of its supporting member or members, or 50 percent or more damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.

(12) Whenever the building has been so damaged by fire, wind, earthquake, flood or any other cause, or has become so dilapidated or deteriorated as to become:

a. An attractive nuisance to children; or

b. A harbor for vagrants, criminals or immoral persons.

(13) Whenever any building has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building provided by the building code, or of any law or ordinance of this state or city relating to the condition, location or structure of buildings.

(14) Whenever any building which, whether or not erected in accordance with all applicable laws and ordinances, has in any non-supporting part, member or portion less than 50 percent, or in any supporting part, member or portion less than 66 percent of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.

(15) Whenever a building, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, air or sanitation facilities, or otherwise, is determined by the building official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease for reasons including, but not limited to, the following:

a. Lack of, or improper water closet, lavatory, bathtub or shower in a dwelling

unit.

b. Lack of, or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.

c. Lack of, or improper kitchen sink in a dwelling unit.

d. Lack of hot and cold running water to plumbing fixtures in a hotel.

e. Lack of hot and cold running water to plumbing fixtures in a dwelling unit.

f. Lack of required heating facilities.

g. Lack of, or improper operation of, required ventilating equipment.

h. Lack of minimum amounts of natural light and ventilation required by this code.

i. Room and space dimensions less than required by this code, the building code, or the housing code.

j. Lack of required electrical lighting.

k. Dampness of habitable rooms.

l. Infestation of insects, vermin or rodents.

m. General dilapidation or improper maintenance.

n. Lack of connection to required sewage disposal system.

o. Lack of adequate garbage and rubbish storage and removal facilities.

p. Accumulation of animal or human urine or feces, mold, or any condition that could likely harbor or spread disease.

(c) For purposes of this article, any building, regardless of its date of construction, which exists in violation of chapters 3 through 7 of the property maintenance code, or similar provisions in any later version of the property maintenance code which may hereafter be adopted or amended by the city, to an extent that endangers the life, limb, health, property, safety, or welfare of the public or the occupants thereof, shall be deemed and hereby is declared to be a substandard building and a nuisance.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-335 Determination by building official

When the building official has inspected or caused to be inspected any building and has found and determined that the building is substandard, the building official may take any or all of the following actions, as he deems appropriate:

(1) Issue notice to the record owner that the building is substandard and must be repaired, listing the deficiencies, or issue notice to the record owner that the building is substandard, and that the nature and/or the extent of the deficiencies make repair infeasible, so that the building must be demolished, listing the deficiencies;

(2) Issue citation(s) for violation(s) of this article;

(3) Secure the building if permitted by subsection 14-342(a) of this article;

(4) Recommend to the board that abatement proceedings be commenced pursuant to section 14-336 below.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-336 Public hearing for abatement of substandard buildings

(a) Commencement of proceedings. When the building official has found and determined that a building is a substandard building, the building official may commence proceedings to cause the repair, vacation, relocation of occupants, removal, demolition or securing of the building.

(b) Public hearing to be held. Except when the building official finds that a building is likely to immediately endanger persons or property, a public hearing before the board shall be held to determine whether a building complies with the standards set out in section 14-334 of this article. If the building official determines that the building constitutes an immediate danger, the procedures set forth in section 14-342(b) of this article shall be followed.

(c) Notice. Not less than ten days prior to the date on which the hearing is set, the building official shall issue a notice of the public hearing directed to the record owner of the building and to all mortgagees and lienholders. The city shall use diligent efforts to determine the identity and address of any owner, lienholder or mortgagee of the building through search of the county real property records; appraisal district records; records of the secretary of state; assumed name records of the county; tax records of the city; and utility records of the city. The notice shall contain:

(1) The name and address of the record owner;

(2) The street address or legal description sufficient for identification of the premises upon which the building is located;

(3) A statement that the building official has found the building to be substandard or dangerous, with a brief and concise description of the conditions found to render the building dangerous or substandard under the provisions of section 14-334 of this article.

(4) A statement that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this article, and the time it will take to reasonably perform the work.

(5) Notice of the time and place of the public hearing.

(6) A statement that if the building is found to be in violation of this article, the board may order that the building be vacated, secured, repaired, removed or demolished within a reasonable time.

(d) Additional notice of public hearing. Prior to the public hearing, the city may file a copy of the notice mailed pursuant to subsection (c) above in the official public records of real property in the county.

(e) Burden of proof. At the public hearing, the city has the burden of proof to establish that the building or structure at issue is not in compliance with applicable city codes, and is substandard as defined by this article, and to identify the specific deficiencies or code violations; and the owner, lienholder and mortgagee have the burden of proof to establish the scope of any work that may be required to comply with this article, the time it will take to reasonably perform the work, and the financial ability and willingness of the owner, lienholder and/or mortgagee to perform the work with diligence and dispatch.

(f) Conduct of public hearing. At the public hearing, the owner of the building, and all other interested persons may make their appearance and be heard. Any evidence may be received and considered by the board, provided, however, that the board shall not consider evidence as to the existence or extent of any deficiencies or code violations which were not identified in the notice to the record owner described in this section. The chairman of the board, or in his absence, any officer designated by rules adopted by the board to preside at meetings, shall preside and shall determine all questions of order. The hearing may be adjourned from day to day or continued upon a majority vote of the board.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-337 Order of housing and structure board

(a) Findings of the board.

(1) If the board, by a majority vote, finds upon evidence presented at the public hearing that the building is not in violation of standards set out in section 14-334 of this article, the board shall order that the enforcement action cease; provided, however, that such order shall neither prevent the building official from instituting a new enforcement action for other violations the building official alleges have been determined to exist, nor shall such order prevent the building official from instituting a new enforcement action for the same violations if the building official later determines that the conditions as determined by the board have materially changed as to such violations.

(2) If the board, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in section 14-334 of this article, that such conditions can reasonably be remedied by repair within a reasonable time, and that the owner, lienholder, or mortgagee is financially able and is willing to conduct or cause such repairs to be made within a reasonable time, the board shall identify the specific violations found to exist, and order that the owner, mortgagee and/or lienholder repair such violations, and, if necessary to the public safety,

vacate, secure, or relocate the occupants, within such reasonable times as determined by the board to be appropriate, as provided herein.

(3) If the board, by a majority vote, finds upon evidence presented at the public hearing that the building is in violation of standards set out in section 14-334 of this article, and that such conditions cannot reasonably be remedied by repair, or that neither the owner, lienholder, nor the mortgagee are financially able or willing to conduct or cause such repairs to be made within a reasonable time, board shall identify the specific violations found to exist, and order that the owner, mortgagee or lienholder remove or demolish the building, and, if necessary to the public safety, vacate and secure the building and/or relocate the occupants, within such reasonable times as determined by the board to be appropriate, as provided herein, or order such other relief as is permitted by this article.

(b) Time allowed to complete work.

(1) Unless the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days, the order shall require the owner, lienholder or mortgagee of the building to, within 30 days, take one or more of the following actions:

a. Vacate the building;

b. Secure the building from unauthorized entry;

c. Repair the violations; and/or

d. Remove or demolish the building.

(2) If the owner, lienholder, or mortgagee establishes at the hearing that the work cannot reasonably be performed within 30 days, and the board allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the board shall establish specific time schedules as the board determines are appropriate for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

(3) The board may not allow the owner, lienholder or mortgagee more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:

a. Submits a detailed plan and time schedule for the work at the hearing; and

b. Establishes at the hearing that the work cannot be reasonably completed within 90 days because of the scope and complexity of the work.

(4) If the board allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the board shall require the owner, lienholder or mortgagee to regularly submit

progress reports to the building official to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lienholder or mortgagee appear before the board or the building official to:

a. Demonstrate compliance with the time schedules; and

b. If the owner, lienholder or mortgagee, owns property, including structures and improvements on property within the city's boundaries of a value that exceeds $100,000.00, to post cash, a surety bond, a letter of credit or third-party guaranty to cover the cost of the work ordered by the board.

(c) Contents of order. The order of the board must contain at minimum:

(1) An identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) A description of each violation of minimum standards present in the building; and

(3) A description of each of the ordered actions, including a statement that the owner may repair, if determined feasible by the board, or demolish or remove, the building at his option;

(4) A statement that the city will vacate, secure, remove or demolish the building and/or relocate the occupants of the building if the ordered action is not taken within the time allowed, and charge the costs of such actions to the owner, and impose a lien against the property for all such costs; and

(5) If the board has determined that the building will endanger persons or property and that the building is a dwelling with ten or fewer dwelling units, a statement that the city may repair the building and charge the costs to the to the owner, and impose a lien against the property if the ordered action is not taken within the time allowed.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-338 Notice of order of housing and structure board

(a) Order shall be mailed. After the public hearing, the building official shall promptly mail, by certified mail, return receipt requested, a copy of the order to the record owner of the building, and each identified lienholder and mortgagee of the building.

(b) Order shall be filed with city secretary. Within ten days after the date that the order is issued by the board, the building official shall file a copy of the order in the office of the city secretary.

(c) Order shall be published. Within ten days after the date the order is issued by the board, the building official shall publish in a newspaper of general circulation within the city a notice containing:

(1) The street address or legal description of the property;

(2) The date the hearing was held;

(3) A brief statement indicating the results of the order; and

(4) Instructions stating where a complete copy of the order may be obtained.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-339 Enforcement of the order of housing and structure board

(a) If the order is not complied with, the city may take action as provided herein. If the building is not vacated, secured, repaired, removed or demolished within the time specified by the order, the city may vacate, secure, repair, remove or demolish the building or relocate the occupants at its own expense; provided, however that remedial action by the city does not limit the ability of a municipality to collect on a bond or other financial guarantee that may be required by subsection 14-337(b)(4) of this article.

(b) Posting of notice to vacate building. If the order requires vacation and if compliance is not had with the order within the time specified therein, the building official is authorized to require that the building be vacated. Notice to vacate shall be mailed by certified mail, return receipt requested, to the occupant of the building and it shall be posted at or upon each entrance to the building and shall be in substantially the following form:

"SUBSTANDARD BUILDING
DO NOT ENTER
UNSAFE TO OCCUPY

It is a misdemeanor to occupy this building or to remove or deface this notice.

_____
Building Official
City of Euless"

(c) Remedial action by city. Any repair, demolition work, or securing of the building shall be accomplished and the cost thereof paid and recovered in the manner hereinafter provided. Any surplus realized from the sale of such building, or from the demolition thereof, over and above the cost of demolition and cleaning of the lot, shall be paid to the person or persons lawfully entitled thereto.

(d) Failure to obey order. Any person to whom an order pursuant to section 14-337 of this article is directed who fails, neglects or refuses to comply with such order shall be guilty of a misdemeanor and may be prosecuted in municipal court in addition to any other remedies available to the city provided herein.

(e) Interference prohibited. No person shall obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city or with any person who owns or holds any estate or interest in the building which has been ordered repaired, vacated,

demolished, removed or secured under the provisions of this article; or with any person to whom such building has been lawfully sold pursuant to the provisions of this article, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building, or purchaser is engaged in the work of repairing, vacating and repairing, or demolishing, removing or securing any such building pursuant to the provisions of this article, or in performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this article.

(f) Permit required. Any work of securing, repair, removal or demolition by the property owner or any lienholder or mortgagee or their agents must be performed pursuant to valid unexpired permits issued by the city. All permits issued pursuant to an order of the board shall expire upon expiration of the time for compliance set forth in the order.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-340 Performance of work by the city

(a) Procedure. When any work of repair, removal, demolition or securing is to be performed by the city pursuant to the provisions of any order of the board, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot cleaned if removal or demolition is ordered. The building or building materials may be sold if removal or demolition is ordered, and the proceeds shall be used to offset other costs of the work.

(b) Repair to minimum standards only. In the event repair by the city is permitted by this article, the city may repair the building at its own expense and assess the expenses on the land on which the building stands or is attached to only to the extent necessary to bring the building into compliance with minimum standards.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-341 Recovery of cost of securing, repair, removal or demolition

(a) Costs. The cost of any work to repair, remove, demolish, or secure a building shall be paid from city funds and shall constitute a special assessment and a lien against such property to secure payment thereof, together with ten percent interest on such amount from the date on which the work is performed; provided, however that no lien may be filed against a homestead protected by the Texas Constitution.

(b) Itemized account and notice of lien. The building official shall keep an itemized account of the expenses incurred by the city in the securing, repair, removal or demolition of any building pursuant to this article. Upon completion of the work, the building official shall prepare and file with the city secretary a sworn account and notice of lien containing the following information:

(1) The name and address of the owner if that information can be determined with a reasonable effort;

(2) A legal description of the real property on which the building is or was located;

(3) The type of work performed; and

(4) The amount of expenses incurred by the city in performing the work and the balance due.

(c) Notice filed in county records. The city secretary shall file the notice of lien along with a copy of the order of abatement issued by the board in the official public records of real property in the county.

(d) Personal obligation of property owner. The expenses incurred by the city as set forth in the sworn account of the building official shall be a personal obligation of the property owner in addition to a priority lien upon the property. The city attorney may bring an action in any court of proper jurisdiction against the owner or property to recover the costs incurred by the city.

(e) Lien shall be valid and privileged. Upon filing of the notice of lien in the official public records of real property in the county, the lien shall be valid against the property so assessed. The lien shall be privileged and subordinate only to tax liens and shall be paramount to all other liens. The lien shall continue until the assessment and all interest due and payable thereon has been paid.

(f) Assessment must be paid. No utility service, building permit or certificate of occupancy shall be allowed on any such property until the assessment is paid and such lien is released by the city.

(g) Release of lien. After the expenses incurred by the city, as set forth in the sworn account of the building official, have been fully paid with interest of ten percent per annum from the date the work was performed, the building official shall execute a release of lien which shall be filed in the official public records of real property in the county.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-342 Additional authority to secure certain substandard buildings prior to public hearing and secure, demolish, repair or remove certain dangerous buildings

(a) Securing of unoccupied, substandard building. Notwithstanding any other provisions of this article, the city may secure a building if the building official determines:

(1) That the building violates the minimum standards set forth in this article; and

(2) That the building is unoccupied or is occupied only by persons who do not have the right of possession of the building.

(b) If building creates immediate danger. Notwithstanding any other provisions of this article, if the building official finds that a building is likely to immediately endanger persons or property the building official may:

(1) Order the owner of the building, or the owner or occupant of the property on which the building is located, to repair, remove, or demolish the building, or the dangerous part of the building, within a specified time; or

(2) Repair, remove, or demolish the building, or the dangerous part of the building, at the expense of the city, on behalf of the owner of the building or the owner of the property on which the building is located, and assess the repair, removal, or demolition expenses on the property on which the building was located.

(c) Notice of action. Before the 11th day after the date the building is secured pursuant to subsection 14-342(a) above, or action is ordered pursuant to subsection 14-342(b)(1) above, or the building is repaired, removed or demolished pursuant to subsection 14-342(b)(2) above, the building official shall give notice to the owner by:

(1) Personally serving the owner with written notice; or

(2) Depositing the notice in the United States mail addressed to the owner at the owner's post office address; or if personal service cannot be obtained and the owner's post office address is unknown, by:

a. Publishing the notice at least twice within a ten-day period in a newspaper of general circulation in the county; and

b. Posting the notice on or near the front door of the building if personal service cannot be obtained and the owner's post office address is unknown; and

In addition to the above, the building official shall deposit notice in the United States mail to all lienholders and mortgagees who can be determined from a reasonable search of instruments on file in the office of the county clerk.

(d) Notice. The notice must contain:

(1) An identification, which is not required to be a legal description, of the building and the property on which it is located;

(2) A description of each of the violations of the minimum standards present in the building;

(3) A statement that the city will secure or has secured, as the case may be, the building, or that the city has taken or will take the action ordered pursuant to subsection 14-342(b) above;

(4) An explanation of the owner's entitlement to request a hearing about any matter relating to the city's securing, removing, demolishing or repairing of the building.

(e) Hearing. The board shall conduct a hearing at which the owner, lienholder and mortgagee may testify or present witnesses or written information about any matter relating to the city's securing, repairing, removing or demolishing of the building, if, within 30 days after the date the city has taken action pursuant to subsections 14-342(a) or (b) above, the owner, lienholder or mortgagee files with the city a written request for the hearing. The hearing shall be conducted within 20 days after the date the request is filed.

(f) Lien. If the city incurs expenses under this section, such expenses incurred shall be a personal obligation of the property owner in addition to a priority lien upon the property, and costs shall be recovered as provided by section 14-341 of this article.

(g) Violation. It shall be unlawful to fail to comply with an order issued pursuant to this section.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-343 Additional authority to vacate and secure certain unsanitary substandard buildings prior to hearing

(a) If unsanitary conditions create danger. Notwithstanding any other provisions of this article, if the building official determines that the interior of a building is in such an unsanitary condition as to be unfit for human occupancy because of trash, garbage, filth, vermin or rat infestation, an accumulation of animal or human urine or feces, mold, any condition that could likely harbor or spread disease, or any other condition that is to likely to endanger the health and safety of occupants or citizens of the City, then the building official shall order the building immediately vacated and secured from entry and occupation.

(b) Notice of hearing. At the time a building is vacated pursuant to this section, the building official shall personally serve all occupants with written notice of a right to request a hearing with the city manager. The city manager shall conduct a hearing at which the occupant or the occupant's representative may testify or present witnesses or written information about any matter relating to the city's vacating and securing of the building, if, within 30 days after the date the city has taken action pursuant to subsection 14-343(a) above, the occupant or the occupant's representative files with the city manager's office a written request for the hearing. Written requests for a hearing may only be filed Monday through Thursday during normal city business hours, and the hearing shall be conducted within 24 hours after the date the written request is filed. The city manager will preside over the hearing; however, in the event the city manager is unable to preside, the deputy city manager shall preside, and in the event the deputy city manager is unable to preside, the assistant city manager shall preside.

(c) Hearing. After considering all information and facts presented, the city manager or his replacement shall make a determination and issue an order instructing the building official to do any of the following:

(1) Reverse the order to vacate and secure the building.

(2) Modify the duration of the order to vacate and secure if the occupant or the occupant's representative provides evidence that the interior of a building can be brought into compliance with the minimum standards of this article.

(3) Continue to enforce the order vacating and securing the building until a hearing is set with the board.

(4) Initiate proceedings pursuant to Section 14-336 of this article.

(d) Violation. It shall be unlawful to fail to comply with an order issued pursuant to this section.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-344 Judicial review

(a) Any owner, lienholder, or mortgagee jointly or severally aggrieved by a board order issued under this article may file in district court a verified petition setting forth that the order is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be filed by an owner, lienholder, or mortgagee within 30 calendar days after the respective dates a copy of the final order of the board is mailed to them by certified mail with return receipt requested, or such order shall become final as to each of them upon the expiration of each such 30 calendar day period.

(b) On the filing of the petition, the court may issue a writ of certiorari directed to the city to review the order of the board and shall prescribe in the writ the time within which a return on the writ must be made, which must be longer than ten days, and served on the relator or the relator's attorney.

(c) The city may not be required to return the original papers acted on by it, but it is sufficient for the city to return certified or sworn copies of the papers or of parts of the papers as may be called for by the writ.

(d) The return must concisely set forth other facts as may be pertinent and material to show the grounds of the order appealed from and shall be verified.

(e) The issuance of the writ does not stay proceedings on the order appealed from.

(f) Appeal in the district court shall be by trial de novo. The court may reverse or affirm, in whole or in part, or may modify the order brought up for review.

(g) Costs may not be allowed against the city.

(h) If the order of the board is affirmed or not substantially reversed but only modified, the district court shall allow to city all attorney's fees and other costs and expenses incurred by it and shall enter a judgment for those items, which may be entered against the property owners, lienholders, or mortgagees as well as all persons subject to the proceedings before the board.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-345 Civil penalty

(a) Civil penalty authorized. In addition to any other enforcement authority provided for by law, the board may, by order, approved after a hearing, assess a civil penalty against a property owner as provided for herein for failure to comply with an order issued by the board pursuant to section 14-337 of this article.

(b) Showing required. The civil penalty may be assessed if it shown at the hearing that:

(1) The property owner was notified of the contents of the order issued pursuant to section 14-337 of this article; and

(2) The property owner committed an act in violation of the order or failed to take an action necessary for compliance with the order.

(c) Amount of penalty. The civil penalty may be assessed in an amount not to exceed $1,000.00 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed ten dollars per day for each violation.

(d) Notice of hearing. Not less than ten days prior to the date on which the hearing is set, the property owner shall be sent a notice of the hearing by certified mail/return receipt requested. The notice shall contain:

(1) A copy of the order issued by the board pursuant to section 14-337 of this article;

(2) A statement that the building official has determined that the property owner committed an act in violation of that order, or failed to take an action necessary for compliance with that order, together with a description of the acts that violated the order, or a description of what actions the owner failed to take that were necessary for compliance with the order;

(3) A statement that at the hearing the board may assess a civil penalty not to exceed $1,000.00 per day for each violation or, if the owner shows that the property is the owner's lawful homestead, in an amount not to exceed $10.00 per day for each violation; and

(4) Notice of the time and place of the hearing.

(e) Copy of order filed with district clerk. If a civil penalty is assessed, the city secretary shall file with the district clerk of the county in which the property is located, a certified copy of the order assessing the civil penalty stating the amount and duration of the penalty.

(f) Enforcement. The civil penalty may be enforced by the city in a suit brought by the city in a court of competent jurisdiction for a final judgment in accordance with the assessed penalty. A civil penalty under this subsection is final and binding and constitutes prima facie evidence of the penalty in any suit.

(Ord. No. 1943, § 1, 2-14-12)

Sec. 14-346 Immediate demolition

Notwithstanding all other provisions of this article, nothing herein shall be deemed a limitation on the duty of the city to summarily order the demolition of any building or structure where it is apparent that the immediate demolition of such building or structure is necessary to the protection of life, property or general welfare of the people in the city.

(Ord. No. 1943, § 1, 2-14-12)

Secs. 14-347–14-350 Reserved

ARTICLE XIII. RESERVED*(32)

CHAPTERS 15 - 17
RESERVED

CHAPTER 18
BUSINESSES*(33)

ARTICLE I. IN GENERAL

Secs. 18-1–18-30 Reserved

ARTICLE II. SOLICITORS, CANVASSERS AND HANDBILL DISTRIBUTION*(34)

Division 1. Generally

Sec. 18-31 Purpose

The purpose of this article is to provide for the general health, public safety and welfare, comfort, convenience and protection of the city and the residents of the city by:

(1) Prohibiting door-to-door solicitation and canvassing activity at residences during the times when such activity is most intrusive and disruptive to citizens' privacy;

(2) Regulating the manner in which any solicitation activity, canvassing activity or handbill distribution may occur to promote good order, prevent litter and protect citizens from aggressive and intimidating practices; and

(3) Requiring solicitors to register with the city to aid crime detection and deter deceptive practices and fraud.

The provisions of this article shall be construed to accomplish these purposes.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-32 Definitions

In this article:

Administrator means the assistant police chief or some other employee of the city designated by the chief of police.

Canvasser means a person who engages in canvassing activities.

Canvassing or canvassing activity means the act of:

(1) Traveling either by foot or vehicle, going door-to-door, house-to-house, building-to-building; or

(2) Occupying space in or traveling on or through any public place in the city;

Personally contacting persons to communicate in any manner, whether orally, by written or printed materials including, but not limited to, handbills, leaflets, hand signing or by any other method, direct or implied, for any purpose other than selling or taking orders for goods, wares, merchandise or services or collecting money.

City means the City of Euless, Texas.

Dark means the time of day identified by the United States Naval Observatory as being after the end of civil twilight on a particular day in the city.

Handbill means any printed or written matter, any sample or device, dodger, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any manner.

Handbill distribution means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building without personally contacting persons to distribute or leave on or at each premises handbills for any purpose.

Non-profit organization means an organization or entity that is exempt from the payment of tax pursuant to section 501(c)(3) of the Internal Revenue Code.

Police chief means the police chief of the city.

Selling means to sell, dispense, peddle, hawk, display, offer to sell or solicit for sale by offering or exposing for sale any goods, wares, merchandise or services.

Solicitation activities means traveling either by foot or vehicle, going door-to-door, house-to-house or building-to-building personally contacting persons to ask, barter or communicate in any manner, whether orally, by written or printed materials including but not limited to handbills or leaflets, hand signing or by any other method, direct or implied, for the purpose of selling or taking orders for goods, wares, merchandise or services or collecting money for any purpose.

Solicitor means a person who engages in solicitation activities.

Traffic safety vest means a high visibility vest made of fluorescent orange or yellow material that may be clearly seen at any time of the day.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-33 Exemptions

(a) This article does not apply to:

(1) The activity of a person with an appointment calling upon or dealing with manufacturers, wholesalers, distributors, brokers or retailers at their place of business and in the usual course of business;

(2) The activity of a person acting at the request or invitation of the owner or occupant of a residence;

(3) Sales made under the authority of and by judicial order;

(4) The activity of a government employee acting within the course and scope of their official duties serving, delivering or posting official notices including notices of code violations, water restrictions, utility outages, burn bans, special event impacts or security issues; or

(5) The activity of a person under the authority of a permit issued under article I, “Food Establishments,” of chapter 42 of this Code.

(b) It shall be an affirmative defense to prosecution for any offense under this article that the activity of the defendant is listed in subsection (a).

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-34 General regulations

(a) A person commits an offense if the person engages in solicitation or canvassing activity at a residence:

(1) Before 8:30 a.m.; or

(2) After dark or 9:00 p.m., whichever is earlier on a given day.

(b) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution at a premises with a posted notice that such activity is not welcomed or invited. It shall be presumed that there is notice that solicitation or canvassing activity is not welcomed or invited when there is exhibited in a conspicuous place on or near the main entrance of the premises, a sign, not less than four inches by three inches in size, containing the words “No Solicitors,” “No Trespassing,” or words of similar meaning in letters not less than two-thirds of one inch in height.

(c) A person who is not the owner or tenant of a premises commits an offense if the person removes, defaces or otherwise renders illegible a sign placed by the owner or tenant of the premises pursuant to subsection (b) of this section.

(d) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution and remains or lingers on a premises after being informed by

the owner or tenant that they are not welcome.

(e) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution in an aggressive or intimidating manner. The term “aggressive or intimidating manner” means:

(1) Blocking the path of a person who is the object of the activity; or

(2) Following behind, ahead or alongside a person who walks away from the solicitor after being solicited, approached, accosted or offered a handbill, leaflet or any other item.

(f) A person commits an offense if the person engages in solicitation activities, canvassing activities, or handbill distribution and distributes, deposits, places, throws, scatters, or casts a handbill at a residence except by:

(1) Handing or transmitting the handbill directly to the owner or occupant then present in or upon the premises; or

(2) Without using adhesive or tape, placing or depositing the handbill in a manner that secures the handbill and prevents it from being blown away, except that mailboxes may not be used when the use is prohibited by federal postal laws or regulations.

(g) A person commits an offense if the person secures a handbill at a residence in the manner described by subsection (f)(2) of this section:

(1) In a place that is more than five feet from the front door of the residence; or

(2) When another handbill has already been left or secured at the residence and has not been removed from the outside of the residence.

(h) A person commits an offense if the person engages in solicitation activities, canvassing activities or handbill distribution without wearing a traffic safety vest.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-35 Solicitation from a vehicle

(a) A person commits an offense if the person conducts solicitation activities from a vehicle and:

(1) The solicitation is conducted at a location within the right-of-way of any street or highway in the city which is designated as a highway or freeway, major or minor arterial on the city’s thoroughfare plan; or

(2) The person stops the vehicle within a roadway to conduct business before the vehicle has been approached, called, or waived down by a prospective customer.

(b) A person commits an offense if the person operates a vehicle from which solicitation

activities are conducted upon any street or highway within the city in a manner that blocks or impedes access to or from any alley, street or driveway, or impedes the flow of traffic on any public street or highway.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-36 Penalty

(a) Any person, firm, or corporation violating any of the terms and provisions of this article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in accordance with chapter 1, “General Provisions,” section 1-12, “General Penalty,” of this Code. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

(b) In case of any willful violation of any of the terms and provisions of this article, the city, in addition to imposing the penalties provided in subsection (a), may institute any appropriate action or proceeding in any court having proper jurisdiction, to restrain, correct or abate such violations; and the definition of any violation as a misdemeanor shall not preclude the city from invoking the civil remedies given it by the laws of the state.

(c) The court trying a civil or criminal cause under subsections (a) or (b) shall have the right and power upon judgment or conviction of any person for violation of any of the provisions of this article to decree and to make as a part of the judgment or conviction in such cause the forfeiture of the registration certificate required by this article. When a registration certificate is forfeited in this manner, no further certificate shall be issued to that person for one year from the date of judgment or conviction.

(Ord. No. 1949, § 1, 3-13-12)

Secs. 18-37–18-50 Reserved

Division 2. Registration

Sec. 18-51 Registration required for solicitation; fees

(a) A person commits an offense if the person engages in solicitation activities in the city without a valid registration certificate issued by the administrator.

(b) A registration certificate shall be valid for one year following the date of its issuance unless a shorter period is requested by the applicant.

(c) An applicant for a registration certificate shall pay a non-refundable application fee at the time the application is submitted, and if required, shall submit a bond.

(d) The amount of the non-refundable application fee shall be as set forth in chapter 30 of this Code. If a person, firm, corporation or organization engages in solicitation activity through two or more agents, employees or volunteers the non-refundable application fee for each additional agent, employee or volunteer shall be as set forth in chapter 30 of this Code. The non-refundable application fee shall be used for the purpose of defraying administrative

expenses incident to the issuing of registration certificates.

(e) A non-profit organization or a person conducting solicitation activity on behalf of a non-profit organization is exempt from payment of the application fee and the bond requirement set forth in section 18-54 of this article.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-52 Application

A person desiring to conduct solicitation activities within the city shall make a written application on a form provided by the administrator for a registration certificate. The application shall contain or be submitted with the following information:

(a) The full name, date of birth, phone number and address of the applicant;

(b) A valid state driver's license number or a state-approved identification card number (the administrator will make a photocopy and attach to the application) of the applicant;

(c) Except as provided by subsection 18-53(c) of this chapter, two photographs of the applicant, measuring 1.5 inches × 1.5 inches and showing the head and shoulders of the applicant in a clear and distinguishing manner, which shall have been taken within the preceding 60 days before filing the application;

(d) If a vehicle or vehicles are used to conduct the solicitation activity, a description of each vehicle, its license plate number and vehicle identification number, the name and license number of the driver who will operate each vehicle, and adequate proof under state law that each driver maintains financial responsibility for the vehicle they will operate shall be attached to the application;

(e) If the applicant is acting as an employee, agent or volunteer, the name and physical street address (not a post office box) and telephone number of the employer, principal or organization with credentials in written form establishing the relationship and authority of the employee, agent or volunteer to act for the employer, principal or organization;

(f) If applicable, the merchandise to be sold or offered for sale, the nature of the services to be furnished;

(g) The approximate time period within which the solicitation is to be made, stating the date of the beginning of the solicitation activity, its projected conclusion and the proposed dates and times of solicitation;

(h) Whether the applicant, upon any order obtained, will demand, accept or receive payment or the deposit of money in advance of final delivery, and if so, a copy of the bond required by section 18-54 of this article;

(i) If the applicant, or the applicant's employer or principal has pled guilty, or nolo

contendere to, or has been convicted of a felony or misdemeanor involving fraud, deceit, theft, embezzlement, burglary, larceny, fraudulent conversion, misrepresentation, or misappropriation of property within ten years preceding the date of application, a description of each such conviction or plea, the name of the court and jurisdiction in which the complaint or indictment was filed and the date of the offense;

(j) If the applicant, or the applicant's employer or principal is a person against whom a civil judgment or administrative decision based upon fraud, deceit, theft, embezzlement, burglary, larceny, fraudulent conversion, misrepresentation, or misappropriation of property has been entered or ordered within ten years preceding the date of application, a description of judgment or action, the case or cause number, if any, and the court or administrative agency that rendered the judgment or decision;

(k) If the solicitation activity is to be conducted on behalf of a non-profit organization, proof of such status shall be attached to the application.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-53 Solicitation by minors; applications

(a) A minor who conducts solicitation activities shall be sponsored or employed by a person over the age of 18, a corporation, firm or organization. The person, corporation, firm or organization that is sponsoring or employing the minor(s) is responsible for controlling the conduct of the minors and the minors shall be under the constant supervisor of a person 18 years of age or older.

(b) A person, corporation, firm or organization that sponsors or employs one or more minors as solicitors must submit one application and pay one nonrefundable application fee, in the amount set forth in Chapter 30, except as provided for in subsection 18-51(e) of this article, for the registration of the minors regardless of the number of minors who conduct solicitation activities. The sponsor or employer shall provide the administrator the name(s), date(s) of birth, address(es) and driver's license number(s) (if applicable), and a notarized parental consent for each minor that will be conducting solicitation activities. The parental consent form, which shall be provided by the administrator, shall acknowledge the release of the information set forth above.

(c) A minor who conducts solicitation activities is exempt from section 18-56 of this article and shall be required to carry while conducting solicitation activities only a copy of the approved solicitors registration application.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-54 Bond

(a) Solicitors who require cash deposits or advance payments for future delivery of goods or for services to be performed in the future or who require an agreement to finance the sale of goods for future delivery or for services to be performed in the future, shall furnish to the city a

bond with the application in the amount determined in subsection (c) of this section, signed by the applicant and a surety company authorized to do business in Texas:

(1) Conditioned upon the final delivery of goods or services in accordance with the terms of any order obtained;

(2) To indemnify purchasers for defects in material or workmanship that may exist in the goods sold and that are discovered within 30 days after delivery; and

(3) For the use and benefit of persons, firms, or corporations that may make a purchase or give an order to the principal of the bond or to the agent or employee of the principal of the bond.

(b) If a person, firm, or corporation is engaging in solicitation activities through one or more agents, employees, or volunteers only one bond is required for the activities of all the agents, employees or volunteers.

(c) The amount of the bond is determined by the number of solicitors as follows:

(1) One to three solicitors: $500.00;

(2) Four to six solicitor: $750.00;

(3) Seven or more solicitors: $1,000.00.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-55 Application review and registration acceptance

(a) Upon receipt of an application, the administrator shall review the application to ensure compliance with this article.

(b) The administrator shall authorize the registration within 30 days of receipt of the application unless:

(1) An investigation reveals that the applicant or the applicant's employer, principal or organization falsified information on the application;

(2) Within ten years preceding the date of application, the applicant or the applicant's employer, principal or organization has pled guilty or nolo contendere to, or has been convicted of, a felony or misdemeanor described in subsection 18-52(i) of this article;

(3) Within ten years preceding the date of application, a civil judgment or administrative decision described in section 18-52(j) of this article has been entered or ordered against the applicant or the applicant's employer, principal or organization;

(4) The applicant provided no proof of authority to act on behalf of the employer, principal or organization;

(5) The type of solicitation activity requires a bond, and the applicant or the applicant's employer, principal or organization has not complied with the bond requirements; or

(6) The application does not contain the information or documents required by section 18-52 of this article.

(c) The denial and the reasons for the denial shall be noted on the application, and the applicant shall be notified of the denial by notice mailed to the applicant and the applicant's employer, principal or organization at the address shown on the application or the last known address. The notice of denial shall be mailed within 30 days of the receipt of the application.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-56 Registration certificate

(a) Upon authorization of the registration, the administrator shall deliver a registration certificate for each solicitor.

(b) The registration certificate shall be in the form of a photo identification tag and shall contain the following information:

(1) The name and address of the solicitor;

(2) The solicitor's employer, principal or organization, if applicable;

(3) The kind of goods or services to be sold or offered for sale, if applicable;

(4) A description and license plate number of any vehicle to be used in carrying out the solicitation activities, if applicable;

(5) A registration number; and

(6) The dates of issuance and expiration of the certificate.

(c) The registration certificate shall be worn constantly in a conspicuous place by the permit holder while conducting solicitation activities in the city. A person commits an offense if the person engages in solicitation activities and fails or refuses to show or display the registration certificate upon the request of any person.

(d) A registration certificate shall be used only by the solicitor for whom it was issued and may not be transferred to another person. A person commits an offense if the person wears or displays a photo identification tag issued to another person.

(e) A person who uses a vehicle in conducting solicitation activities shall post a sign located in a conspicuous place on or in the window of the vehicle, identifying the name of the person, company or organization that the person represents. If the name is an individual person, it must be followed by the word "solicitor." The lettering on the sign must be at least two and one-half inches high. A person commits an offense if the person violates this subsection.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-57 Revocation or suspension of registration

A registration certificate issued pursuant to this article may be revoked or suspended by the administrator, after notice and hearing, for any of the following reasons:

(a) Fraud, misrepresentation, or false statement contained in the application for registration;

(b) Fraud, misrepresentation, or false statement made by a solicitor in the course of conducting solicitation activities;

(c) A plea or conviction of a crime described in section 18-52(i) of this article;

(d) A judgment involving a matter described in section 18-52(j) of this article;

(e) The type of solicitation activity requires a bond, and the bond requirements have not been complied with or the bond has expired or is no longer valid; or

(f) A violation of any of the regulations set forth in this article.

(Ord. No. 1949, § 1, 3-13-12)

Sec. 18-58 Appeals

(a) A person who is denied a registration certificate or whose registration is revoked or suspended by the administrator may appeal the decision to the police chief by filing notice of appeal with the police chief within 15 days after the notice of the decision is mailed to the address indicated on the application or the last known address.

(b) Within ten days of the receipt of the notice of appeal, the police chief shall set a time and place for a hearing on the appeal which shall be not later than 40 days from the date of receipt of the notice of appeal.

(c) Notice of the time and place of the hearing shall be delivered to the person by mail, sent to the address indicated on the application or the last known address of the appellant.

(d) The decision of the police chief on the appeal is final. No other administrative procedures are provided by the city.

(Ord. No. 1949, § 1, 3-13-12)

Secs. 18-59–18-75 Reserved

ARTICLE III. SEXUALLY ORIENTED BUSINESSES*(35)

Division 1. Generally

Sec. 18-76 Adoption of Preamble

The findings contained in the preamble of this ordinance are determined to be true and correct and are adopted as a part of this ordinance.

(Ord. No. 1844, 3-24-09)

Sec. 18-77 Purpose and Intent

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 the 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 or 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 market.

(Ord. No. 1844, 3-24-09)

Sec. 18-78 Findings

Based on evidence concerning the adverse secondary effects of Sexually Oriented Businesses on the community presented in hearings and in reports made available to the Council, and on findings incorporated in the cases of City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986); Young v. American Mini Theatres, 427 U.S. 50 (1976); FW/PBS, Inc. v. City of Dallas, 493 U.S. 215 (1990); Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); City of Erie v. Pap's A.M., 529 U.S. 277, 120 S. Ct. 1382 (2000); City of Los Angeles v. Alameda Books, Inc., 122 S. Ct. 1728 (2002); Baby Dolls Topless Saloons, Inc. v. City of Dallas, 295 F.3d 471 (5th Cir. 2002); LLEH, Inc. v. Wichita County, Texas, 289 F.3d 358 (5th Cir. 2002); Mitchell v. Commission on Adult Entertainment, 10 F.3d 123 (3rd Cir. 1993); Schultz v. City of Cumberland, 228 F.3d 831 (7th Cir. 2000); Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995); 2300, Inc. v. City of Arlington, 888 S.W.2d 123 (Tex. App. - Fort Worth, 1994); Colacurcio v. City of Kent, 163 F.3d 545 (9th Cir. 1998), cert denied, 529 U.S. 1053 (2000); Kev, Inc. v. Kitsap County, 793 F.2d 1053 (9th Cir. 1986); Center for Fair Public Policy v. Maricopa County, 336 F.3d 1153 (9th Cir. 2003); DLS, Inc. v. Chattanooga, 107 F.3d 403 (6th Cir. 1997); Jake's, Ltd., Inc. v. Coates, 384 F.3d 884 (8th Cir. 2002); and on studies, reports and/or testimony in other communities including, but not limited to: Phoenix, Arizona; Minneapolis, Minnesota; St. Paul, Minnesota; Houston, Texas; Indianapolis, Indiana; Dallas, Texas; Amarillo, Texas; Garden Grove, California; Los Angeles, California; Whittier, California; Austin, Texas; Seattle, Washington; Oklahoma City, Oklahoma; Cleveland, Ohio; Beaumont, Texas; Newport News, Virginia; Bellevue, Washington; New York, New York; St. Croix County, Wisconsin; Kitsap County, Washington; Los Angeles, California Police Department (dated August 12, 2003); Arlington, Texas, License and Amortization Appeal Board hearings, 2001 and 2002; Arlington Community Health Profile (dated July 2003); a summary of land use studies compiled by the National Law Center for Children and Families; and also on findings from the

Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota), and the study entitled Survey of Texas Appraisers - Secondary Effects of Sexually-Oriented Businesses on Market Values by Cooper and Kelley and Crime-Related Secondary Effects - Secondary Effects of "Off-Site" Sexually-Oriented Businesses by McCleary, June 2008, the Council finds:

1. Sexually Oriented Businesses lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments. Further, absent municipal regulation aimed at reducing adverse secondary effects there is no mechanism to make the owners of these establishments responsible for the activities that occur on their premises.

2. Certain employees of Sexually Oriented Businesses, defined in this Ordinance as Sexually Oriented Theater, Nude Model Business, Escort Agency, and Sexually Oriented Cabaret, engage in higher incidence of certain types of illicit sexual behavior than employees of other establishments.

3. Sexual acts, including masturbation, prostitution, sexual contact, and oral and anal sex, occur at Sexually Oriented Businesses, especially those which provide private or semi-private booths or cubicles, or rooms for viewing films, videos, or live sex shows.

4. Offering and providing private or semi-private areas in Sexually Oriented Businesses encourages such sexual activities, which creates unhealthy conditions.

5. Persons frequent certain Sexually Oriented Theaters, Sexually Oriented Arcades, and other Sexually Oriented Businesses for the purpose of engaging in sex within the premises of such Sexually Oriented Businesses.

6. At least 50 communicable diseases may be spread by activities occurring in Sexually Oriented Businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis B, Non A, Non B amebiasis, salmonella infections and shigella infections.

7. Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS (acquired immunodeficiency syndrome) caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982; 2,200 in 1983; 4,600 in 1984; 8,555 in 1985, and 253,448 through December 31, 1992.

8. As of December 31, 2001, there have been 57,199 reported cases of AIDS in the State of Texas.

9. Since the early 1980s and to the present, there has been an increasing cumulative number of persons testing positive for the HIV antibody test in Tarrant County, Texas and across the State of Texas.

10. The number of cases of early (less than one year) syphilis in the United States reported annually has risen, with 33,613 cases reported in 1982, and 45,200 through November, 1990. According to Texas Department of Health records there were

1,175 cases of early syphilis reported in the State of Texas during 2000 and an additional 972 cases reported in 2001.

11. The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990. Again, according to Texas Department of Health records there were 32,895 cases of gonorrhea reported in the State of Texas during 2000 and an additional 30,116 cases reported in 2001. During the same time period there were also 138,692 cases of Chlamydia reported in the State of Texas. [Arlington Community Health Profile (dated July 2003)]

12. In his report of October 22, 1986, the Surgeon General of the United States has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, exposure to infected blood and blood components, and from an infected mother to her newborn.

13. According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

14. Sanitary conditions in some Sexually Oriented Businesses are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

15. Numerous studies and reports have determined that semen is found in the areas of Sexually Oriented Businesses where persons view “sexually oriented” films.

16. Sexually Oriented Businesses have operational characteristics which should be reasonably regulated in order to protect substantial governmental concerns.

17. A reasonable licensing procedure is an appropriate mechanism to place the burden of that reasonable regulation on the owners and the operators of the Sexually Oriented Businesses. Further, such a licensing procedure will place an incentive on the operators to see that the Sexually Oriented Business is run in a manner consistent with the health, safety, and welfare of its patrons and employees, as well as the citizens of the City. It is appropriate to require reasonable assurances that the licensee is the actual operator of the Sexually Oriented Business, fully in possession and control of the premises and activities occurring therein.

18. Removal of doors on booths and requiring sufficient lighting on premises with booths advances a substantial governmental interest in curbing the illegal and unsanitary sexual activity occurring in Sexually Oriented Theaters.

19. Requiring licensees of Sexually Oriented Businesses to keep information regarding current employees and certain past employees will help reduce the incidence of certain types of criminal behavior by facilitating the identification of potential witnesses or suspects and by preventing minors from working in such establishments.

20. The disclosure of certain information by those persons ultimately responsible for the day-to-day operation and maintenance of the Sexually Oriented Business, where such information is substantially related to the significant governmental interest in the operation of such uses, will aid in preventing the spread of sexually transmitted diseases.

21. In the prevention of the spread of communicable diseases, it is desirable to obtain a limited amount of information regarding certain employees who may engage in the conduct that this Ordinance is designed to prevent, or who are likely to be witnesses to such conduct.

22. The fact that an applicant for a Sexually Oriented Business license has been convicted of a sexually related crime leads to the rational assumption that the applicant may engage in that conduct in contravention of this Ordinance. There is a correlation between Sexually Oriented Businesses, specifically their hours of operation and the type of people which such businesses attract, and higher crime rates. [Baby Dolls Topless Saloons, Inc. v. City of Dallas, 295 F.3d 471 (5th Cir. 2002)].

23. The barring of such individuals from the management of Sexually Oriented Businesses for a period of years serves as a deterrent to, and prevents conduct which leads to, the transmission of sexually transmitted diseases.

24. It is reasonably believed that to better protect the public health, safety, and welfare, it is necessary to adopt additional amendments to this chapter.

25. It is reasonably believed that to prevent the exploitation of a loophole in the Ordinance (which would have permitted such businesses to avoid the location restrictions), partially nude performances in such businesses are also included within the purview of the regulations, since they have the same harmful secondary effects on the surrounding community as Sexually Oriented Businesses currently regulated under the Ordinance. [Baby Dolls Topless Saloons, Inc. v. City of Dallas, 295 F.3d 471 (5th Cir. 2002)].

26. There is no Constitutional right for Sexually Oriented Business employees in a state of nudity to touch customers. [Hang On, Inc. v. City of Arlington, 65 F.3d 1248 (5th Cir. 1995)]

27. One court has characterized the acts of Sexually Oriented Business employees in a state of nudity and being paid to touch or be touched by customers as prostitution. [People v. Hill, 2002 Ill. App. LEXIS 792 (Ill. App. 2 Dist. Sep. 4, 2002); See also, Tex. Penal Code Sections 43.01 (“sexual conduct” and “sexual contact”) and 43.02 (“prostitution”)].

28. Attempts by the City of Arlington to require Sexually Oriented Businesses to advise customers and employees in a state of nudity to refrain from intentionally touching and fondling each other through signage posted at the business entrance have not been effective.

29. Sexually Oriented Businesses have not complied with the “no touch” provisions, but have flagrantly disregarded them and/or encouraged employees and customers to violate the “no touch” provision.

30. Provocative touching between customers and employees in a Sexually Oriented Business where at least one is in a state of nudity frequently leads to the commission of sex crimes, illegal drug use, and increased health risks due to sexually transmitted diseases.

31. Compelling signage at the entrances of Sexually Oriented Businesses has not been effective in halting “no touch” violations.

32. The City of Arlington has had to expend considerable law enforcement resources to enforce the “no touch” provisions.

33. The City Council reasonably believes that requiring employees in a state of nudity to be physically separated from customers by the use of elevated stages and buffer zones is necessary to better ensure ordinance compliance while still not inhibiting constitutionally protected expressive conduct or speech. [LLEH, Inc. v. Wichita County, Texas, 289 F.3d 358 (5th Cir. 2002)]

34. The City Council reasonably believes that sexual activity occurring in private viewing booths at sexually oriented businesses leads to unhealthy and unsanitary conditions and to the transmission of sexually transmitted and other communicable diseases. [Matney v. County of Kenosha, 86 F.3d 692, 695 (7th Cir. 1996)]

35. The City Council reasonably believes that certain negative secondary effects, including prostitution, drug trafficking and assaultive offenses are associated with nude or semi-nude dancing in environments where alcohol is served or allowed. [J.L. Spoons, Inc. v. Dragani, 538 F.3d 379, 382 (6th Cir. 2008)]

36. The City Council reasonably believes that the licensing and permit requirements imposed on Sexually Oriented Businesses that offer on-site entertainment comport with the prompt judicial review and preservation of the status quo requirements enunciated by the United States Supreme Court, and thus do not constitute an unconstitutional prior restraint. [Richland Bookmart, Inc. v. Knox County, Tenn., 2009 FED App. 0052P (6th Cir. 2009)]

37. The City Council reasonably believes that inadequately illuminated parking lots and parking lots that are not visible from the public right-of-way by virtue of being fenced or otherwise shielded from view present increased opportunities for criminal and sexual activity.

38. The City Council reasonably believes that video monitoring the parking lots of Sexually Oriented Businesses will deter individuals from engaging in criminal and sexual activity in the area being monitored and retaining recordings will assist law enforcement in criminal investigations should any crimes be committed in the area.

39. The City Council finds that pursuant to “The Airport Zoning Act,” Chapter 241, Texas

Local Government Code, that the City of Euless has no authority to exercise land use regulatory authority over land within its corporate city limits defined as an "airport" by the Act.

40. It is reasonably believed by the City Council that the general welfare, health, and safety of the citizens of the City will be promoted by the enactment of this Ordinance.

41. It is reasonably believed by the City Council that adequate sites are reasonably available for Sexually Oriented Businesses that meet licensing and otherwise applicable requirements to locate and operate in the City of Euless.

42. The findings noted in Subsections (1) through (40) raise substantial governmental concerns.

(Ord. No. 1844, 3-24-09)

Sec. 18-79 Definitions

In this chapter:

ACHROMATIC means colorless or lacking in saturation or hue. The term includes, but is not limited to, grays, tans, and light earth tones. The term does not include white, black, or any bold coloration that attracts attention.

ADULT ARCADE means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion-picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by regularly depicting or describing "specified sexual activities" or "specified anatomical areas."

ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE means a commercial establishment for which the regular offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer constitutes twenty-five percent (25%) or more of the items in inventory and/or floor space of the Sexually Oriented Business, including:

(A) books, magazines, periodicals or other printed matter, or photographs, films, motion-pictures, DVD's, video cassettes or video reproductions, slides, or other visual representations, that depict or describe "specified sexual activities" or "specified anatomical areas"; or

(B) instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities," but not including items used for birth control or for the prevention of sexually transmitted diseases.

ADULT CABARET means a commercial establishment that regularly features the offering to customers of live entertainment that:

(A) is intended to provide sexual stimulation or sexual gratification to such customers; and

(B) is distinguished by or characterized by an emphasis on matter depicting, simulating, describing, or relating to “specified anatomical areas” or “specified sexual activities.”

ADULT MOTEL means a hotel, motel, or similar commercial establishment that:

(A) offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion-pictures, video cassettes, slides, or other photographic reproductions that are characterized by the regular depiction or description of “specified sexual activities” or “specified anatomical areas”; and has a sign visible from the public right-of-way that advertises the availability of this adult type of photographic reproductions; 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 occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

ADULT MOTION-PICTURE THEATER means a commercial establishment where, for any form of consideration, films, motion-pictures, video cassettes, slides, or similar photographic reproductions are regularly shown that are characterized by the depiction or description of “specified sexual activities” or “specified anatomical areas.”

APPLICANT means:

(A) a person or entity in whose name a license to operate a Sexually Oriented Business will be issued;

(B) each individual who signs an application for a Sexually Oriented Business license as required by Section 18-81;

(C) each individual who is an officer of a Sexually Oriented Business for which a license application is made under Section 18-81, regardless of whether the individual’s name or signature appears on the application;

(D) each individual who has a 20 percent or greater ownership interest in a Sexually Oriented Business for which a license application is made under Section 41A-4, regardless of whether the individual’s name or signature appears on the application; and

(E) each individual who exercises substantial de facto control over a Sexually Oriented Business for which a license application is made under Section 18-81, regardless of whether the individual’s name or signature appears on the application.

CHIEF OF POLICE means the chief of police of the City of Euless or the chief’s designated agent.

CHILD-CARE FACILITY means a facility licensed by the State of Texas, whether situated within the City or not, that provides care, training, education, custody treatment or supervision for more than six (6) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less that twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.

CHURCH means a building, whether situated within the City or not, in which persons regularly assemble for religious worship and said building is intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

CONVICTION means a conviction in a federal court or a court of any state or foreign nation or political subdivision of a state or foreign nation that has not been reversed, vacated, or pardoned. “Conviction” includes disposition of charges against a person by probation or deferred adjudication.

EMPLOYEE means any individual who:

(A) is listed as a part-time, full-time, temporary, or permanent employee on the payroll of an applicant, licensee, or Sexually Oriented Business; or

(B) performs or provides entertainment on the Sexually Oriented Business premises for any form of compensation or consideration.

ESCORT means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY means a person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

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.

HEARING OFFICER shall mean the City Manager, or his or her designee. The “Hearing Officer” shall exercise those powers authorized under the Texas Local Government Code, the Charter of the City of Euless, and the Code of Ordinances of the City of Euless, as appropriate

in the furtherance of his or her duties.

HOSPITAL means a facility or area for providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities, and staff offices that are an integral part of the facilities.

LICENSEE means:

(A) a person in whose name a license to operate a Sexually Oriented Business has been issued;

(B) each individual listed as an applicant on the application for a license;

(C) each individual who is an officer of a Sexually Oriented Business for which a license has been issued under this chapter, regardless of whether the individual's name or signature appears on the license application;

(D) each individual who has a 20 percent or greater ownership interest in a Sexually Oriented Business for which a license has been issued under this chapter, regardless of whether the individual's name or signature appears on the license application; and

(E) each individual who exercises substantial de facto control over a Sexually Oriented Business for which a license has been issued under this chapter, regardless of whether the individual's name or signature appears on the license application.

NUDE MODEL STUDIO means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration; however, nude modeling at or on behalf of any properly accredited institution of higher learning shall not fall within this definition

NUDITY or a STATE OF NUDITY means a state of dress which fails to fully and opaquely cover the anus, genitals, pubic region, or perineum anal region, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the anus, genitals, pubic region, or perineum anal region, regardless of whether the nipple and areola of the human female breast are exposed.

OPERATES OR CAUSES TO BE OPERATED means to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a Sexually Oriented Business whether or not that person is an owner, part owner, or licensee of the business.

PERSON means an individual, proprietorship, partnership, corporation, association, or other legal entity.

PUBLIC PARK means any city park defined by Chapter 54 of the Euless Code of Ordinances.

RESIDENTIAL DISTRICT means a single-family, duplex, townhouse, multiple family, or mobile home zoning district as defined in Chapter 84 of the Euless Code of Ordinances.

RESIDENTIAL USE means a single-family, duplex, multiple family, or "mobile home park, mobile home subdivision, and campground" use as defined in Chapter 84 of the Euless Code of Ordinances.

SEMI-NUDE or SEMI-NUDITY or STATE OF SEMI-NUDITY means the exposure of the post puberty female nipple or areola, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the post puberty female nipple or areola, so long as the following anatomical areas of an individual are fully and opaquely covered: the anus, genitals, pubic region and the perineum anal region of the human body. The term "semi-nude" shall not apply to an individual exposing a post puberty female nipple or areola in the process of breastfeeding a child under that person's care.

SEXUALLY ORIENTED BUSINESS means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, escort agency, nude model studio, or other commercial enterprise for which the regular offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer constitutes twenty-five percent (25%) or more of the items in inventory and/or floor space of the Sexually Oriented Business. The term shall also mean any commercial enterprise that self-identifies as an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion-picture theater, escort agency or nude model studio, regardless of whether the percentage of items in inventory and/or floor space constitute twenty-five percent (25%) or more of the total items in inventory and/or floor space.

SIGN means any display, design, pictorial, or other representation that is:

(A) constructed, placed, attached, painted, erected, fastened, or manufactured in any manner whatsoever so that it is visible from the outside of a sexually oriented business; and

(B) used to seek the attraction of the public to any goods, services, or merchandise available at the sexually oriented business.

The term "sign" also includes any representation painted on or otherwise affixed to any exterior portion of a Sexually Oriented Business establishment or to any part of the tract upon which the establishment is situated.

SPECIFIED ANATOMICAL AREAS means:

(A) any of the following, or any combination of the following, when less than completely and opaquely covered:

(i) any human genitals, pubic region, or pubic hair;

(ii) any buttock; or

(iii) any portion of the female breast or breasts that is situated below a point

immediately above the top of the areola; or

(B) human male genitals in a discernibly erect state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES means and includes any of the following:

(A) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;

(B) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

(C) masturbation, actual or simulated; or

(D) excretory functions as part of or in connection with any of the activities set forth in Paragraphs (A) through (C) of this subsection.

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 that constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(C) the establishment of a trust, gift, or other similar legal device that 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.

(Ord. No. 1844, 3-24-09)

Sec. 18-80 Classification

Sexually Oriented Businesses are classified as follows:

(1) adult arcades;

(2) adult bookstores, adult novelty stores or adult video stores;

(3) adult cabarets;

(4) adult motels;

(5) adult motion-picture theaters;

(6) escort agencies; and

(7) nude model studios.

(Ord. No. 1844, 3-24-09)

Division 2. License For Sexually Oriented Business

Sec. 18-81 License Required

A. A person commits an offense if the person operates or causes to operate a Sexually Oriented Business without a valid license, issued by the City for the particular classification of Sexually Oriented Business.

B. Any person, association, firm, partnership or corporation desiring to obtain a Sexually Oriented Business license shall make application 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 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 (6").

C. The applicant must be qualified according to the provisions of this article.

D. An individual person who wishes to operate a Sexually Oriented Business 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 percent (20%) or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 18-81, and each applicant shall be considered a licensee if a license is granted.

E. The fact that a person possesses other types of State or City permits does not exempt that person from the requirement of obtaining a license for a Sexually Oriented Business.

F. All applications for a license under this article shall be accompanied by a nonrefundable application fee. The fees shall follow the schedule set forth in Chapter 30 of the Euless Municipal Ordinance. An application shall not be considered to have been received as administratively complete until the fee is paid and all information required by the application form has been submitted. The application fee shall not be prorated in the event an application is tendered before or during the licensing period.

G. Upon approval of a Sexually Oriented Business license, an applicant for a Sexually Oriented Business license must obtain a Certificate of Occupancy for a Sexually Oriented Business from the Building Official. The Building Official shall issue or deny a Certificate of Occupancy to a Sexually Oriented Business not more than forty-five (45) business days subsequent to the date of the applicant’s submission of such application for a Certificate of Occupancy to the City’s Office of Building Inspections. Such application for a Certificate of Occupancy shall be deemed approved if not approved or denied within such time period.

H. Upon approval of a Sexually Oriented Business license, if an applicant for a Sexually Oriented Business requires a building permit under applicable city ordinances, the Building Official shall cause all building, fire, health and other necessary permits to be issued within thirty (30) business days subsequent to the date of the applicant’s submission of an application

for said permit to the City's Office of Building Inspections. Upon receipt of administratively complete application(s), the Building Official shall cause all necessary inspections to occur within thee (3) business days of the applicant's request for an inspection made to the Building Official. Such application(s) shall be deemed approved if not approved or denied within such time period. The applicant must specify on the face of its application that the proposed use is for a Sexually Oriented Business and give the name and address of the applicant's contact person for all communications and notices.

I. Notwithstanding any other ordinance, an applicant for a Sexually Oriented Business may appeal any decision of the Building Official by appealing to the Zoning Board of Adjustment within thirty (30) calendar days after receipt of notice of decision or the expiration of the deadlines set forth in (G) or (H) above. The applicant may appeal any decision of the Zoning Board of Adjustment to the appropriate county court at law within thirty (30) calendar days of that decision. The filing of such suit will have the effect of staying denial of such building permit or Certificate of Occupancy pending a judicial determination. A provisional permit or certificate shall be granted upon the filing of a court action to appeal the denial of such permit or certificate. The provisional permit or certificate will expire upon entry of judgment on such appeal.

J. A licensee or operator commits an offense if the licensee or operator fails to display a legible copy of the complete provisional permit or certificate described in Subsection 18-81 (I), if applicable, on the exterior of the Sexually Oriented Business premises. Such copy of the provisional permit or certificate must be prominently and continuously displayed where customers enter the premises and immediately adjacent to such entrances.

K. This section shall not apply to ADULT BOOKSTORES, ADULT NOVELTY STORES and ADULT VIDEO STORES, as those terms are defined herein.

(Ord. No. 1844, 3-24-09)

Sec. 18-82 License Issuance and Grounds for Denial

A. The Chief of Police shall approve the issuance of a license to an applicant within thirty (30) days after receipt of an application, unless the Chief of Police finds one (1) or more of the following to be true:

1. The location of the Sexually Oriented Business is or would be in violation of Article III of this Chapter.

2. The applicant failed to supply all of the information requested on the application.

3. The applicant gave false, fraudulent or untruthful information on the application.

4. An applicant is under eighteen (18) years of age.

5. An applicant or an applicant's spouse is overdue in payment to the Texas Secretary of State or the City of taxes, fees, fines or penalties assessed against or imposed upon the applicant or the applicant's spouse in relation to a Sexually Oriented Business.

6. An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation or community supervision for a violation of a provision of this Chapter, within two (2) years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.

7. The license fee required by this Article has not been paid.

8. The applicant has not demonstrated that the owner of the Sexually Oriented Business owns or holds a lease for the property or the applicable portion thereof upon which the Sexually Oriented Business will be situated or has a legally enforceable right to acquire the same.

9. An applicant or the proposed establishment is in violation of or is not in compliance with Sections 18-83 or 18-90, 18-112(H), 18-114(A)(1), 18-114(A)(5), 18-115(A)(1), or 18-115(A)(5), as applicable.

10. An applicant or an applicant's spouse has been convicted or placed on deferred disposition, probation, or community supervision for:

    a. Any offense under the laws of the United States of America, another state or the Uniform Code of Military Justice for an offense described in this Section 18-82 (A)(10); or

    b. Any of the below offenses of the State of Texas or criminal attempt, conspiracy, or solicitation to commit same:

        (1) Any of the following offenses as described in Chapter 43 of the Texas Penal Code:

            (a) Prostitution;

            (b) Promotion of prostitution;

            (c) Aggravated promotion of prostitution;

            (d) Compelling prostitution;

            (e) Obscenity;

            (f) Sale, distribution or display of harmful material to a minor;

            (g) Sexual performance by a child;

            (h) Possession of child pornography;

        (2) Any of the following offenses as described in Chapter 21 of the Texas Penal Code:

            (a) Public lewdness;

(b) Indecent exposure;

(c) Indecency with a child;

(3) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;

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

(5) Those crimes defined as "drug-defined offenses" or "drug-related offenses" by the Bureau of Justice Statistics Drug & Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in Section 12.04 of the Texas Penal Code;

c. For which:

(1) Less than two (2) years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is a misdemeanor offense; or

(2) Less than five (5) years have elapsed since the date of conviction, or the date of release from the terms of community supervision, probation, parole or deferred disposition or the date of release from confinement for the conviction, whichever is the later date, if the conviction is a felony offense; or

(3) 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.

11. The applicant or the applicant's spouse is required to register as a sex offender under the provisions of Chapter 62 of the Texas Code of Criminal Procedure.

12. The applicant failed to comply with any of the requirements of Section 243.0075 of the Texas Local Government Code regarding the posting of an outdoor sign.

B. An applicant, or applicant's spouse, who has been convicted of or placed on deferred disposition, probation or community supervision for an offense listed in Section 18-82(A)(10) may qualify for a Sexually Oriented Business license only when the time period required by Section 18-82(A)(10)(c) has elapsed.

C. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the Sexually Oriented Business.

D. The license shall be posted in a conspicuous place at or near the entrance to the Sexually Oriented Business, so that it is visible to the public at all times and may be easily read.

(Ord. No. 1844, 3-24-09)

Sec. 18-83 Inspection and Maintenance of Records

A. A licensee, operator or employee of a Sexually Oriented Business shall be subject to regulation under this Chapter and shall permit representatives of the Police Department, Health Department, Fire Department, Building Inspections Division and Code Enforcement Division to inspect all portions of the premises where customers are allowed and the records required to be maintained under this Chapter by the Sexually Oriented Business for the purpose of ensuring compliance with this Chapter at any time it is occupied or open for business.

B. A licensee or operator of a Sexually Oriented Business commits an offense if the person operates the establishment without maintaining a current list of all employees of the business, along with a complete updated employment application for each employee. A legible copy of a valid driver's license, state identification card, or passport, with a photograph, together with an original photograph accurately depicting the employee as the person appears at the time the person is hired, shall be required and maintained on the premises with the employee's application.

C. A licensee or operator of a Sexually Oriented Business commits an offense if the person refuses to permit a lawful inspection of the records and premises by a representative of the Police Department at any time the Sexually Oriented Business is occupied or open for business.

D. The licensee or operator of a Sexually Oriented Business shall maintain all records required to be maintained under the provisions of this Chapter on the licensed premises.

E. The licensee or operator of a Sexually Oriented Business commits an offense if the person does not maintain the required records on the premises of the licensed establishment.

F. A licensee, operator or employee of a Sexually Oriented Business shall permit representatives of the Police Department to take photographs of the licensee, operator or employees of the Sexually Oriented Business for the purpose of ensuring compliance with this Chapter at any time it is occupied or open for business.

G. A licensee, operator or employee of a Sexually Oriented Business commits an offense if that person does not permit representatives of the Police Department to take photographs of the licensee, operator or employee of the Sexually Oriented Business at any time it is occupied or open for business.

H. The provisions of this section do not apply to areas of a Sexually Oriented Motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Ord. No. 1844, 3-24-09)

Sec. 18-84 Expiration and Renewal of License

A. Each license shall expire one year after the date of issuance.

B. Renewal of a license may be applied for by submission to the Chief of Police of an application on the form prescribed by such official and payment of a nonrefundable renewal processing fee of Five Hundred Dollars ($500).

C. Application for renewal shall be made at least thirty (30) days before the expiration date of the current license.

(Ord. No. 1844, 3-24-09)

Sec. 18-85 Suspension

A. Subject to Section 18-85(B), the Chief of Police shall suspend a Sexually Oriented Business license if the Chief of Police determines that a licensee(s), operator(s) or employee(s) of a licensee (or any combination thereof) has/have:

1. (a) On five (5) or more occasions within any twelve (12) month period of time been cited for a violation of Sections 18-120, 18-122, 18-123 or any of the provisions of Division 3 or 4 of this Chapter; (b) been convicted or placed on deferred disposition or probation for the violations; and (c) the Chief of Police determines that notice of the citations has been sent to the licensee in accordance with Section 18-131 of this Chapter; or

2. (a) On five (5) or more occasions within any twelve (12) month period of time been cited for a violation of Section 18-83 of this Chapter; (b) been convicted or placed on deferred disposition or probation for the violations; and (c) the Chief of Police determines that notice of the citations has been sent to the licensee in accordance with Section 18-131 of this Chapter; or

3. (a) Cited for any combination of offenses under subsections (1) or (2) above that total five (5) within any twelve (12) month period of time; (b) convicted or placed on deferred disposition or probation for the violations; and (c) the Chief of Police determines that notice of the citations has been sent to the licensee in accordance with Section 18-131 of this Chapter.

B. A period of suspension will begin the first day after the decision of the Chief of Police becomes final as provided in Section 18-86, unless the licensee appeals to district court under Section 18-89. If appeal is taken under Section 18-89, the period of suspension begins the day after all appeals are final.

C. Each day in which a violation is permitted to continue shall constitute a separate violation for purposes of suspension.

(Ord. No. 1844, 3-24-09)

Sec. 18-86 Grounds for Revocation

A. The Chief of Police may revoke a Sexually Oriented Business license:

1. If a cause of suspension in Section 18-85 occurs and the license has been ordered suspended by the Chief of Police for a thirty (30) day period pursuant to Section 18-85(B)(4) within the preceding year; or

2. If the Chief of Police determines that on two or more occasions within a five (5) year period of time a licensee(s) or operator(s) (or any combination thereof) has/have been convicted of or placed on deferred disposition, probation or community supervision for conduct occurring in a licensing period on the premises of a Sexually Oriented Business that constitutes any of the offenses of the State of Texas or criminal attempt, conspiracy, or solicitation to commit same for:

   a. Any of the following offenses as described in Chapter 43 of the Texas Penal Code:

      (1) Prostitution;

      (2) Promotion of prostitution;

      (3) Aggravated promotion of prostitution;

      (4) Compelling prostitution;

      (5) Obscenity;

      (6) Sale, distribution or display of harmful material to a minor;

      (7) Sexual performance by a child;

      (8) Possession of child pornography;

   b. Any of the following offenses as described in Chapter 21 of the Texas Penal Code:

      (1) Public lewdness;

      (2) Indecent exposure;

      (3) Indecency with a child;

   c. Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;

   d. Incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of the Texas Penal Code; or

   e. Those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug & Crime Data Fact Sheet, 1994, for which

punishment would be classified as a felony as set forth in Section 12.04 of the Texas Penal Code.

3. If a licensee or operator gave false or misleading information in the material submitted to the Chief of Police during the application process;

4. If a licensee or operator has knowingly allowed possession, use or sale of a controlled substance on the premises;

5. If a licensee or operator has on two (2) or more occasions knowingly allowed prostitution on the premises;

6. If a licensee or operator knowingly operated the Sexually Oriented Business during a period of time when the licensee's license was suspended;

7. If a licensee or operator has, on two (2) or more occasions, 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;

8. If 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;

9. If the licensee is required to register as a sex offender under the provisions of Chapter 62 of the Texas Code of Criminal Procedure.

10. If a license is transferred in violation of Section 18-90(A).

B. The fact that a conviction is being appealed shall have no effect on the revocation of the license.

C. Section 18-86(A)(7) does not apply to Sexually Oriented 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 or within public view.

(Ord. No. 1844, 3-24-09)

Sec. 18-87 Denial, Suspension and Revocation Procedures

A. A denial, suspension, or revocation is an administrative procedure. In any hearing relating to such actions under this Section, the burden of proof shall be on the City (except for affirmative defenses), and shall be by a preponderance of the evidence.

B. If the Chief of Police is authorized to deny the issuance of a license, or suspend or revoke a license, the Chief of Police shall give written Notice to the applicant or licensee of his intent to implement denial, suspension, or revocation procedures.

1. The notice shall state the reason for such denial, suspension, or revocation.

2. The provisions of the code which have been violated.

3. The person or office with which any request for contested case hearing must be filed and the address at which any such request must be filed.

C. The notice shall provide that the denial of issuance, suspension or revocation shall take effect at the expiration of the tenth calendar day after notification, unless the licensee or permit holder provides a written request for hearing to the Chief of Police before the expiration of the tenth calendar day.

D. If a written request for hearing from the applicant, permit holder, or licensee is received by the Chief of Police before the expiration of the tenth calendar day, the suspension, denial of issuance, or revocation will be stayed pending a hearing and a decision by the Hearing Officer.

E. In making a determination as to the denial of a license, the Chief of Police shall consider whether the applicant has established the applicant's entitlement to a license under the requirements imposed by Section 18-82 of this Chapter and/or whether the City has established a disqualifying factor under the requirements imposed by Section 18-82 of this Chapter.

F. In making a determination of the suspension of a license under Section 18-85 of this Chapter, the Chief of Police shall consider: (1) whether the required number of citations under Section 18-85(A)(1), (2), or (3) were issued to the licensee, operator, or employee of the licensee within a twelve (12) month period of time; (2) whether notice of such citations was sent to the proper Sexually Oriented Business in compliance with Section 18-131 of this Chapter; (3) whether the licensee, operator, or employee of the licensee was convicted or placed on deferred disposition or probation for the citations.

G. In making a determination of the revocation of a license under Section 18-86(A)(1) of this Chapter, the Chief of Police shall consider: (1) whether the required number of citations under Section 18-85(A)(1), (2), or (3) were issued to the licensee, operator, or employee of the licensee within a twelve (12) month period of time; (2) whether notice of such citations was sent to the proper Sexually Oriented Business in compliance with Section 18-131 of this Chapter; (3) whether the licensee, operator, or employee of the licensee was convicted or placed on deferred disposition or probation for the citations; and (4) whether the license at issue has been ordered suspended for a thirty (30) day period of time pursuant to Section 18-88(B)(4) of this Chapter within the preceding twelve (12) month period of time.

H. In making a determination of the revocation of a license under Sections 18-86(A)(2)-(10) of this Chapter, the Chief of Police shall consider whether the evidence shows that the specified convictions, events, or actions occurred as set forth in those sections of this Chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-88 Period of Suspension or Revocation

A. The revocation of a license as provided for in Section 18-86 of this Chapter shall be for a period of twelve (12) months.

B. The suspension of a license as provided for in Section 18-85 of this Chapter shall be as follows:

1. The first suspension of a license shall be for a period of three (3) calendar days. When the Chief of Police is authorized to suspend a license for three (3) days, he shall notify the licensee in the notice of decision of the licensee's opportunity to pay a reinstatement fee in the amount of $500.00 in lieu of the suspension. Payment of this administrative fee shall be considered, for the purposes of this Subsection, the first suspension and an administrative admission of the violations. However, this shall not be used as an admission of guilt in a criminal prosecution under this Chapter. If the licensee does not pay the reinstatement fee before the expiration of the thirtieth (30th) calendar day after notification, the licensee loses the opportunity to pay it.

2. The second suspension of a license shall be for a period of seven (7) calendar days.

3. The third suspension of a license shall be for a period of fifteen (15) calendar days.

4. The fourth suspension of a license shall be for a period of thirty (30) calendar days. Except where grounds for revocation of a license exist under Section 18-86(A)(1), each subsequent suspension of a license shall be for a period of thirty (30) calendar days.

(Ord. No. 1844, 3-24-09)

Sec. 18-89 Administrative Hearing and Appeals

A. The applicant or licensee shall have ten (10) calendar days from the date notice is received, to request a hearing on the denial, suspension or revocation. The request shall be in writing and delivered via personal delivery, or via U.S. Postal Service, Certified Mail, Return Receipt Requested. If filed by mail, the request shall be considered timely filed if the green return receipt card shows the item was properly addressed and received by the addressee on or before the tenth calendar day from the date the permit holder, licensee, or applicant received Notice of Intention to Revoke/ Suspend. Upon receipt of the request for hearing, a hearing before the Hearing Officer shall be scheduled to take place within thirty (30) calendar days unless both parties agree to a certain date beyond the thirty days. The Hearing Officer shall consider only the testimony and evidence admitted for consideration at the hearing. The Hearing Officer shall have five (5) business days from the date of the hearing to notify the applicant or licensee of the decision.

1. Standing.

   a. Only the Chief of Police and the licensee, permit holder, or applicant shall have standing in an administrative revocation, suspension, or denial proceeding.

2. Representation by Counsel.

   a. Each party is entitled to:

(1) The assistance of counsel, at the party's expense, before the Hearing officer; or

(2) Expressly waive the right to assistance of counsel in writing or on the record before the Hearing Officer.

3. Status of Permit During Hearing.

a. While a case is pending, and prior to the final decision of the Hearing Officer regarding revocation or suspension, a permit remains valid unless:

(1) It expires without timely application for renewal;

(2) It is voluntarily withdrawn or surrendered by the permit holder; or

(3) The permit holder commits an act or omission contrary to the provisions of this Article which otherwise invalidates the permit.

(4) This shall not apply during any judicial appeal following the decision of the hearing officer.

4. Applicable Rules.

a. Except as otherwise indicated herein, the Texas Rules of Evidence and the Texas Rules of Civil Procedure shall apply to a hearing.

5. The following additional rules shall apply to any hearing pursuant to this Article:

a. The City Attorney, or his designated representative shall represent the Chief of Police.

b. Except upon express written agreement of all parties to the hearing, or upon showing of good cause for a period not to exceed twenty days, a hearing will not be continued.

c. Ex parte communications in connection with any issue of fact or law between any party and the Hearing Officer are strictly prohibited, except on notice and opportunity for each party to participate.

d. A party may request a court reporter to transcribe the hearing. The party requesting a transcript of the hearing shall bear the cost for production of the transcript.

e. If there be any conflict between the Texas Rules of Evidence and the Texas Rules of Civil Procedure and the rules set forth in this Article, this Article shall prevail.

6. Record. The hearing record shall include the following:

a. a File Stamped Copy of Notice of Intention to Revoke/ Suspend Permit;

b. the request for a hearing and any written response to the Notice of Intention to Revoke/ Suspend Permit or License;

c. a statement of matters officially noticed;

d. questions and offers of proof, objections, and ruling on them;

e. each decision, opinion, or report prepared by the Hearing Officer at the hearing;

f. all documents, data, and other evidence submitted to or considered by the Hearing Officer used in making his or her decision; and,

g. the record shall be filed with the Municipal Court for the City of Euless.

7. Decision of the Hearing Officer.

a. If a request for a hearing has been timely filed, the Hearing Officer shall conduct a de novo hearing and shall make one of the following findings:

(1) If the hearing is one for which the permit or license is subject to suspension, the Hearing Officer's determination that the alleged offense occurred and the severity of the offense, either order a suspension pursuant to the time periods in Section 18-88; or deny the suspension.

(2) If the Hearing Officer finds that any of the condition set forth in this Article exists that would make the permit or license subject to revocation, the Hearing Officer shall, on the basis of the severity of the offense, either: revoke the permit or license, or order a suspension pursuant to Section 18-88.

b. If the Hearing Officer does not make the requisite findings, then the permit or revocation or suspension is deemed as being denied.

8. Notice of Revocation/ Suspension.

a. A final decision or order by the Hearing Officer shall be issued in writing, and shall:

(1) include findings of fact and conclusions of law, separately stated;

(2) contain a concise and explicit statement of the underlying facts supporting the findings;

(3) if a party submits proposed finding of fact, the decision or order shall include a ruling on each proposed finding;

(4) be rendered not later than five business days after the date on which the hearing is finally closed;

(5) be provided to all parties via personal delivery or via United States Postal Service, Certified Mail, Return Receipt Requested; and

(6) be considered timely if:

(a) for personal delivery, a party receives notice not later than three business days from the date on which the decision is rendered; or

(b) for postal delivery, the decision or order is postmarked not later than three business days from the date on which the decision is rendered.

b. The decision by the Hearing Officer is effective thirty (30) calendar days after the applicant or licensee is notified of the decision, unless a reinstatement fee under Section 18-88(B)(1) of this Chapter is paid (if available), or an appeal is made to District Court.

c. Following a final decision, any revocation or suspension of the permit in question shall take effect upon the date of delivery of the notice of the Hearing Officer's decision or such other date as may be set by the Hearing Officer and stated in the notice.

d. Any act authorized by permit shall be unauthorized and in violation of this Article upon and after the effective date of any suspension of the permit until the suspension expires.

e. Any act authorized by a permit shall be unauthorized and in violation of this Article upon and after the effective date of any revocation of the permit unless and until a new permit, if any, is applied for and granted pursuant to the terms of this Article. If a permit has been revoked because of crimes or activities occurring on the premises of a Sexually Oriented Business, the owner/ operator of the Sexually Oriented Business is disqualified from receiving or holding any permit under this Article for a period of one calendar year from the effective date of the revocation.

f. If a permit is suspended or revoked because of crimes or activities occurring on the premises of a Sexually Oriented Business, each and every individual, person, or association which is an owner/ operator of a Sexually Oriented Business at the time of any suspension or revocation of the sexually oriented business for that establishment shall be considered to have had a permit suspended or revoked as if they held the permit or license in their own name for purposes of determining whether they are qualified to participate in another permit application under this Article. If a permit is suspended or revoked because of crimes or activities of one or more of the permit holders which did not occur on the licenses premise, then only the individual(s) shall be considered to have had a permit suspended or revoked for purposes of determining whether they are eligible to participate in another permit application under this Article.

B. Upon receipt of written notice of the denial, suspension or revocation of a license, the applicant whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal by filing suit in the appropriate district court within thirty (30) calendar days after the receipt of notice of the decision of the Hearing Officer, as applicable. The filing of such suit shall have the effect of staying denial, suspension or revocation for the Sexually Oriented Business licensed under this Chapter at such location, pending a judicial determination of the appeal. The City shall grant a provisional license upon the filing of a court action to appeal the denial of a Sexually Oriented Business license if the applicant is not currently licensed for such business at the subject location; provided, however, a provisional license shall not be issued under the following circumstances: (a) the location of the proposed Sexually Oriented Business is or would be in violation of Division 8 of this Chapter; (b) the duration of the provisional license would coincide with any period of license suspension or revocation set forth in Section 18-88; or (c) there has been a judicial determination upholding the denial of a license for such Sexually Oriented Business at such location within the previous twelve (12) calendar months. Written notice of the denial of a provisional license and the basis for the denial will be provided by the Chief of Police within ten (10) calendar days of service of the court action upon the City.

If the Hearing Officer renders a decision adverse to the Chief of Police, then the Chief of Police shall have thirty days from which the Notice of Revocation/ Suspension is issued in which to file suit in the appropriate district court.

Failure to file suit shall waive and shall bar any appeal or cause of action if suit is not filed within thirty days.

C. Any provisional license and certificate of occupancy issued under this section will expire upon the court's entry of judgment on such appeal. The applicant shall bear the burden of proof in court. The substantial evidence standard of review shall apply to such appeal.

(Ord. No. 1844, 3-24-09)

Sec. 18-90 Transfer of License

A. A person commits an offense if the person transfers a license or permit to another person or operates a Sexually Oriented Business under the authority of a license at any place other than the address designated on the license. A transfer of a license is deemed to have occurred if there is a transfer of more than fifty percent (50%) of the ownership or control of a Sexually Oriented Business.

B. A person commits an offense if the person counterfeits, forges, changes, defaces or alters a license.

(Ord. No. 1844, 3-24-09)

Sec. 18-91 Exemption From Location Restrictions

A. If the Chief of Police denies the issuance of a license to an applicant because the location of the Sexually Oriented Business is in violation of Division 8, then the applicant may, not later

than ten (10) calendar days after receiving notice of the denial, file with the City Secretary a written request for an exemption from the locational restrictions.

B. If the written request is filed with the City Secretary within the ten (10) day limit, the Zoning Board of Adjustment shall consider the request. The City Secretary shall set a date for the hearing within sixty (60) days from the date the written request is filed, unless both parties agree to a certain date beyond the sixty (60) days. If a timely request is so filed, the existing license is deemed not to have expired until the decision of the Board on such request. The Zoning Board of Adjustment shall enter a written ruling on the request within five (5) days of the hearing.

[C. Reserved.]

[D. Reserved.]

E. The Zoning Board of Adjustment may grant an exemption from the location restrictions of Division 8, if it makes the following findings:

1. That the location of the Sexually Oriented Business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;

2. That the location of the Sexually Oriented Business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;

3. That the location of the Sexually Oriented Business in the area will neither be contrary to any program of neighborhood conservation, nor will it interfere with any efforts of urban renewal or restoration; and

4. That all other applicable provisions of this Chapter will be observed.

F. In making the findings specified in Section 18-91(E), the Board may take into account among other things:

1. Crime statistics of the location and its 1,000 foot radius maintained by the appropriate law enforcement agency for the previous twelve (12) month period;

2. Assessed values for the location and properties within the surrounding 1,000 foot radius, taking into account any decline or increase in property values or rates of decrease or increase in property values in relation to otherwise comparable properties;

3. Sales, leases, and vacancy rates of all property types within the surrounding 1,000 foot radius in relation to otherwise comparable properties; and

4. Any evidence regarding the award or denial of any public or private grants for neighborhood conservation, urban renewal or restoration for any property located within a 1,000 foot radius.

G. The Board shall grant or deny the appeal by a majority vote. Failure to reach a majority vote approving the appeal shall result in denial. Disputes of fact shall be decided on the basis of a preponderance of the evidence. A decision by the Zoning Board of Adjustment shall be considered a final action.

H. If the Board grants an exemption to the location restrictions, the exemption is valid for one (1) year from the date of the Board's action. Except as provided in Section 18-91(B), the Sexually Oriented Business is in violation of the location restrictions of Division 8 until the applicant applies for and receives another exemption.

I. The grant of an exemption does not exempt the applicant from any provisions of this Chapter other than the location restrictions.

(Ord. No. 1844, 3-24-09)

Sec. 18-92 Exceptions

A. It is an exception to the application of Section 18-107 of this Article that at the time of the state of nudity or semi-nudity the actor was:

1. an individual, person, or, in the case of 18-107 C. -18-107 F., an association, who owns manages, operates, or appears nude in a public place that is a business operated by or employing a licensed psychologist, licensed physical therapist, licensed athletic trainer, licensed cosmetologist, licensed massage therapist, or licensed barber engaged in performing function authorized under the lawful license held;

2. an individual, person, or, in the case of 18-107 C. -18-107 F., an association, who owns, manages, operates, or appears in nude in a public place that is a business operated by or employing a licensed physician or chiropractor engaged in practicing the healing arts; or

3. an individual, person, or, in the case of 18-107 C. -18-107 F., an association, who owns, manages, operates, or appears in nude in a public place that is a business licensed as a tattoo studio or a body piercing studio and was engaged in practices authorized under the license.

(Ord. No. 1844, 3-24-09)

Secs. 18-93–18-99 Reserved

Division 3. Sexually Oriented Business Employees, Conduct And Operations

Sec. 18-100 Definitions

As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

CONDUCT ANY BUSINESS IN AN ENTERPRISE means any person who does any one or

more of the following shall be deemed to be conducting business in an enterprise:

(1) Operates a cash register, cash drawer or other depository on the premises of the enterprise where cash funds or records of credit card or other credit transactions generated in any manner by the operation of the enterprise or the activities of the premises of the enterprise;

(2) Displays or takes orders from any customer for any merchandise, goods, entertainment or other services offered on the premises of the enterprise;

(3) Delivers or provides to any customer any merchandise, goods, entertainment or other services offered on the premises of the enterprise;

(4) Acts as a door attendant to regulate entry of customers or other persons into the premises of the enterprise; or

(5) Supervises or manages other persons in the performance of any of the foregoing activities on the premises of the enterprise.

CUSTOMER means any person who:

(1) Is allowed to enter an enterprise or any portion of an enterprise in return for the payment of an admission fee, membership fee or any other form of consideration or gratuity;

(2) Enters an enterprise or any portion of an enterprise and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or

(3) Is a member of and on the premises of an enterprise operating as a private or membership club or an enterprise that reserves any portion of the premises of the enterprise as a private or membership club.

DIRECTOR means the Chief of Police and such employee(s) of the police department as he may designate to perform the duties of the director under this article.

EMPLOYEE means any person who renders any service whatsoever to the customers of an enterprise, works in or about an enterprise or who conducts any business in an enterprise and who receives or has the expectation of receiving any compensation from the operator, or customers of the enterprise. By way of example, rather than limitation, the term includes the operator and other management personnel, clerks, dancers, models and other entertainers, food and beverage preparation and service personnel, door persons, bouncers, and cashiers. It is expressly intended that this definition cover not only conventional employer-employee relationships but also independent contractor relationships, agency relationships, and any other scheme or system whereby the ‘employee’ has an expectation of receiving compensation, tips, or other benefits from the enterprise or its customers in exchange for services performed.

ENTERPRISE means an adult bookstore, adult cabaret, adult encounter parlor, adult lounge, adult modeling studio, adult movie theater or any establishment whose primary business is the

offering of a service or the selling, renting or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to its customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas. The term “enterprise” shall include any premises for which a permit is required under either or both of Articles II and III of this chapter. However, the term ‘enterprise’ shall not be construed to include:

(1) Any business operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists, or licensed barbers performing functions authorized under the licenses held;

(2) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts; or

(3) Any retail establishment whose major business is the offering of wearing apparel for sale to customers.

ENTERTAINER means any employee of an enterprise who performs or engages in entertainment.

ENTERTAINMENT means any act or performance, such as a play, skit, reading, revue, fashion show, modeling performance, pantomime, role playing, encounter session, scene, song, dance, musical rendition or striptease that involves the display or exposure of specified sexual activities or specified anatomical areas. The term “entertainment” shall include any employee or entertainer exposing any specified anatomical areas or engaging in any specified sexual activities whatever in the presence of customers.

MANAGER means any person who supervises, directs or manages any employee of an enterprise or any other person who conducts any business in an enterprise with respect to any activity conducted on the premises of the enterprise, including any “on-site manager.”

ON-SITE MANAGER means any person charged by an owner or operator of an enterprise with the responsibility for direct supervision of the operation of the enterprise and with monitoring and observing all areas of the enterprise to which customers are admitted at all times during which the enterprise is open for business or customers are on the premises of the enterprise.

OPERATOR means the manager or other natural person principally in charge of an enterprise.

OWNER or OWNERS means the proprietor if a sole proprietorship, all general partners if a partnership, or the corporation if a corporation.

PERMIT means the current, valid permit issued by the director pursuant to the terms of this article.

SEPARATE AREA means any portion of the interior of an enterprise separated from any other portion of an enterprise by any wall, partition or other divider.

SPECIFIED ANATOMICAL AREAS:

(1) Less than completely and opaquely covered:

a. Human genitals, pubic region or pubic hair;

b. Buttock;

c. Female breast or breasts or any portion thereof that is situated below a point immediately above the top of the areola; or

d. Any combination of the foregoing; or

(2) Human male genitals in a discernibly erect state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES:

(1) Human genitals in a discernible state of sexual stimulation or arousal;

(2) Acts of human masturbation, sexual intercourse or sodomy;

(3) Fondling or other erotic touching of human genitals, pubic region or pubic hair, buttock or female breast or breasts; or

(4) Any combination of the foregoing.

TEMPORARY ENTERTAINER means an individual who holds a Temporary Entertainer's Permit

TEMPORARY ENTERTAINER'S PERMIT means an Entertainer's Permit that is valid for a reduced period of time, as set forth in this Article.

TEMPORARY FLOOR-MANAGER means an individual who holds a Temporary Floor-Manager's Permit.

TEMPORARY FLOOR-MANAGER'S PERMIT means a Floor-Manager's Permit that is valid for a reduced period of time, as set forth in this Article.

TEMPORARY MANAGER means an individual who holds a Temporary Manager's Permit

TEMPORARY MANAGER'S PERMIT means an Entertainer's Permit that is valid for a reduced period of time, as set forth in this Article.

(Ord. No. 1844, 3-24-09)

Sec. 18-101 Cumulative

The provisions of this Article are expressly made cumulative of other applicable laws including, without limitation to the entire chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-102 Permit required

A. It shall be unlawful for any person who does not hold a permit or temporary permit to act as an entertainer or a manager of or in an enterprise.

B. It shall be the duty of the operator and owners of each enterprise to ensure that no person acts as an entertainer or manager of or in the enterprise unless that person holds a permit or temporary permit.

(Ord. No. 1844, 3-24-09)

Sec. 18-103 Issuance of permits

A. Any person who desires to obtain an original or renewal permit shall make application to the director in person at the Police Department between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, city observed holidays excepted. The application shall be made under oath upon a form prescribed by the director and shall include:

1. The name, home street address and mailing address (if different) of the applicant;

2. Proof of the date of birth of the applicant and the identity of the applicant, including at least one photographic identity card issued by a governmental agency;

3. A list of any criminal charges pending, convictions, and time of service in jail or prison as related to any applicable offense that is specified in Section 18-82 of this Article; and

B. Each application shall be accompanied by a nonrefundable processing fee of $60.00. Each applicant shall be required to obtain from the Texas Department of Public Safety a copy of their criminal history report and surrender it to the Police Department upon making application.

C. The Director shall issue the permit within three business days from the date of filing of the application unless he finds that the applicant has been convicted of or spent time in jail or prison for an offense specified in the applicable provisions of Section 18-82 of this Article within the time specified therein. If the application is not granted, then the applicant shall be mailed notice of the grounds and of their right to provide evidence and request a hearing as provided by Section 18-87 of this Article, within ten days from the date of filing of the application.

D. Each permit issued by the Director shall consist of two photographic identification cards, a personal card and an on-site card.

E. Any applicant whose application is denied and who requests a hearing on the denial shall be granted a hearing within thirty days following the receipt of the request by the Chief of Police. The hearing shall be conducted as provided in Section 18-89 of the Article. If the Hearing Officer rules against the applicant, then the applicant shall be given notice of the right to seek an injunction or judicial review of the decision as provided in Section 18-89 of this Article.

F. In the event that the director fails to issue or deny a permit application within the time specified in subsection (c) or to provide a hearing within the time specified in subsection (e), then the applicant shall, upon written request, be immediately issued a temporary permit which shall be valid until the third day after the applicant is given notice of the decision of the director or the hearing officer.

G. If any personal card or on-site card is lost or stolen, the holder thereof shall immediately notify police department and request a replacement, which shall be issued for a fee of $35.00 within three days following verification of the identity of the holder.

H. No permit application shall be accepted nor shall a permit be issued to any person who does not provide proof that he is at least 18 years old. Any permit issued by virtue of any misrepresentation or error to any person under age 18 shall be void, and the holder of such permit shall be subject to criminal prosecution.

I. A temporary manager's permit or temporary entertainer's permit shall be issued within twenty-four hours of the application when:

1. The application has been completed and submitted to the Police Department.

2. The applicant supplies a copy of a valid and lawful photographic identification card that was issued to the individual by a governmental authority of the United States of America or any State, possession, commonwealth, or territory thereof;

3. A preliminary investigation indicates that the applicant is otherwise qualified under this Article for the issuance of a temporary permit; and

4. The applicant has not applied for or been granted a temporary permit in the year preceding the application.

(Ord. No. 1844, 3-24-09)

Sec. 18-104 Term, transfer, amendment

A. A permit is valid for two years from the date of its issuance.

B. A temporary entertainer's permit or temporary manager's permit shall be valid for thirty calendar days.

C. A permit is personal to the named permit holder and is not valid for use by any other person.

D. Each permit holder shall notify the police department of his new address within ten days following any change of address.

E. Permits shall be portable from location to location, so long as each such location is a validly licensed Sexually Oriented Business.

(Ord. No. 1844, 3-24-09)

Sec. 18-105 Display

A. Each manager or entertainer shall conspicuously display his personal card upon his person at all times while acting as an entertainer or manager of or in an enterprise.

B. Each manager or entertainer shall provide his on-site card to the manager or on-site manager in charge of the enterprise to hold while the manager or entertainer is on the premises.

C. In any prosecution under Section 18-105 of this Article, it shall be presumed that the actor did not have a permit unless the permit was in display as required under section (a) of this subsection.

(Ord. No. 1844, 3-24-09)

Sec. 18-106 Revocation

In the event that the director has reasonable grounds to believe that any permit holder has been convicted of or spent time in jail or prison for an offense as specified in the applicable provision of Section 18-82 of this Article within the time specified therein, then the Director may revoke the permit following a notice of the grounds pursuant to Section 18-87. The permit holder has a right to an administrative hearing pursuant to Section 18-89. In the event that the hearing officer determines that the permit should be revoked, then he or she shall issue render a decision pursuant to Section 18-89 following the mailing of notice of the decree to the permit holder in order to allow the permit holder an opportunity before the permit must be surrendered to seek an injunction or judicial review of the decision as authorized in Section 18-89 of this Article.

(Ord. No. 1844, 3-24-09)

Sec. 18-107 Nudity and Semi-Nudity Prohibited in a Public Place

A. It shall be unlawful for an individual to intentionally or knowingly appear in a state of nudity within 50 feet of a public place or establishment that serves or permits the consumption of alcohol.

B. It shall be unlawful for an individual to intentionally or knowingly appear in a state of semi-nudity within 50 feet of a public place or establishment that serves or permits the consumption of alcohol.

C. It shall be unlawful for an individual, person, corporation, or association that manages, or operates a Sexually Oriented Business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of nudity.

D. It shall be unlawful for an individual, person, corporation, or association that manages, or operates a Sexually Oriented Business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of semi-nudity.

E. It shall be unlawful for an owner-operator of a Sexually Oriented Business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of nudity.

F. It shall be unlawful for an owner-operator of a Sexually Oriented Business to intentionally or knowingly allow an individual to appear on the premises of said establishment in a state of semi-nudity.

(Ord. No. 1844, 3-24-09)

Sec. 18-108 Loitering and Monitoring

(a) It shall be the duty of the operator of a Sexually Oriented Business to:

(i) ensure that at least two conspicuous signs, visible from a public right-of-way, stating that no loitering is permitted on the premises are posted on the exterior of the structure;

(ii) designate one or more employees to monitor the parking lot of the premises by the use of video cameras and monitors, which shall operate and record continuously at all times that the premises are open for business. The monitors shall be installed within a manager's station, and the operator of a Sexually Oriented Business shall preserve the recordings of the parking lot of the premises for a period of not less than thirty (30) days before the recordings may be erased. Recordings maintained under this Section are subject to the inspection requirements set forth in Section 18-83.

(b) No Sexually Oriented Business shall erect a fence, wall, or similar barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right-of-way.

(c) It shall be unlawful for a person having a duty under this section to intentionally or knowingly fail to fulfill that duty.

(Ord. No. 1844, 3-24-09)

Sec. 18-109 Reserved

Division 4. Additional Regulations

Sec. 18-110 Additional Regulations for Sexually Oriented Cabaret

A. A person commits an offense if the person employs at a Sexually Oriented Cabaret any person under the age of eighteen (18) years.

B. An employee of a Sexually Oriented Cabaret, while appearing in a state of nudity or semi-nudity, commits an offense if the employee intentionally or knowingly touches a customer or the clothing of a customer.

C. A customer at a Sexually Oriented Cabaret commits an offense if the customer intentionally or knowingly touches an employee appearing in a state of nudity or semi-nudity or the clothing of an employee appearing in a state of nudity or semi-nudity.

D. A licensee, operator or employee commits an offense if the licensee, operator or employee intentionally or knowingly allows, in a Sexually Oriented Business, a person to appear on a stage, unless (1) no customer is present on the stage; (2) the stage is at least eighteen (18) inches above the floor, and is: (a) at least six (6) feet from any customer (hereinafter called "unenclosed performance stage"); or (b) physically separated from customers by a wall or partition composed of solid glass or light-transmitting plastic, or substantially equivalent material extending from the floor of the performance stage to at least five (5) feet above the level of the performance stage, but such that there are no openings in the wall or partition that would permit physical contact between customers and such employee (hereinafter called "enclosed performance stage").

E. A licensee or employee commits an offense if the licensee or employee intentionally or knowingly permits any customer access to an area of the premises not visible from the manager's station or not visible by a walk through of the premises without entering a private, exclusive, closed, curtained, or otherwise screened area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by utilizing flashlights or spotlights in addition to overhead house lighting.

F. A licensee, operator or employee commits an offense if the licensee, operator or employee intentionally or knowingly appears in a state of nudity or semi-nudity or intentionally or knowingly allows another to appear in a state of nudity or semi-nudity in an area of the Sexually Oriented Cabaret business premises which can be viewed from the public right-of-way.

G. A licensee commits an offense if the licensee fails to display the signs on the interior of the Sexually Oriented Cabaret business premises as required in Section 18-123(A) and/or the floor markings required in Section 18-123(B).

H. An employee of a Sexually Oriented Cabaret must attend training given by the licensee concerning the requirements of this Chapter as they pertain to Sexually Oriented Cabarets, including but not limited to Sections 18-83, 18-85, 18-86, 18-110, 18-120, 18-121, 18-122, 18-123, and 18-130, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services; and, at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee identifying the date on which the training was provided and the specific topics discussed.

I. A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the Sexually Oriented Cabaret. At least one person so appointed shall be on the premises at any time the Sexually Oriented Cabaret is open.

J. An operator or a person appointed under Subsection (H) above shall at all times have the duty to ensure that each employee in the Sexually Oriented Cabaret has received the training

required by Subsection (G) above and each employee is instructed to commit no act which would constitute a violation of this Chapter or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-111 Additional Regulations for Escort Agencies

A. A person commits an offense if the person employs at an Escort Agency any person under the age of eighteen (18) years.

B. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

C. An employee of an Escort Agency must attend training given by the licensee concerning the requirements of this Chapter as they pertain to Escort Agencies, including but not limited to Sections 18-83, 18-85, 18-86, 18-110, 18-120, 18-121, 18-122, 18-123, and 18-130, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services; and, at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee identifying the date on which the training was provided and the specific topics discussed.

D. A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the Escort Agency. At least one person so appointed shall be on the premises at any time the Escort Agency is open.

E. An operator or a person appointed under Subsection (D) above shall at all times have the duty to ensure that each employee in the Escort Agency has received the training required by Subsection (C) above and each employee is instructed to commit no act which would constitute a violation of this Chapter or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-112 Additional Regulations for Nude Model Businesses

A. A person commits an offense if the person employs at a Nude Model Business any person under the age of eighteen (18) years.

B. A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a Nude Model Business.

C. A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity or intentionally or knowingly allows another to appear in a state of nudity or semi-nudity in an area of a Nude Model Business premises which can be viewed from the public right-of-way.

D. A person commits an offense if the person intentionally or knowingly places or permits a bed, sofa or mattress in any room on the premises of a nude model business, except that a sofa may be placed in a reception room open to the public.

E. A licensee or employee commits an offense if the person intentionally or knowingly permits any customer access to an area of the premises not visible from the manager's station by direct line of sight or not visible by a walk through of the premises without entering a private, exclusive, closed, curtained, or otherwise screened area, excluding restrooms. The view required in this subsection shall be by direct line of sight. The view shall be deemed insufficient if clear visibility of such line of sight must be attained by utilizing flashlights or spotlights in addition to overhead house lighting.

F. An employee of a Nude Model Business, while appearing in a state of nudity, commits an offense if the employee intentionally or knowingly touches a customer or the clothing of a customer.

G. A customer at a Nude Model Business commits an offense if the customer intentionally or knowingly touches an employee or the clothing of an employee while the employee is appearing in a state of nudity.

H. A licensee commits an offense if the licensee fails to display the signs on the interior of the Nude Model Business premises as required in Section 18-123(A) and/or the floor markings required in Section 18-123(B).

I. An employee of a Nude Model Business commits an offense if that employee allows, asks, directs, or suggests that a customer disrobe to a state of nudity.

J. An employee of a Nude Model Business must attend training given by the licensee concerning the requirements of this Chapter as they pertain to Nude Model Businesses, including but not limited to Sections 18-83, 18-85, 18-86, 18-110, 18-120, 18-121, 18-122, 18-123, and 18-130, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services; and, at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee identifying the date on which the training was provided and the specific topics discussed.

K. A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the Nude Model Business. At least one person so appointed shall be on the premises at any time the Nude Model Business is open.

L. An operator or a person appointed under Subsection (K) above shall at all times have the duty to ensure that each employee in the Nude Model Business has received the training required by Subsection (J) above and each employee is instructed to commit no act which would constitute a violation of this Chapter or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-113 Additional Regulations for Sexually Oriented Theaters and Sexually Oriented Motion-Picture Theaters

A. A person commits an offense if the person employs at a Sexually Oriented Theater or Sexually Oriented Motion-picture Theater any person under the age of eighteen (18) years.

B. A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a Sexually Oriented Theater or Sexually Oriented Motion-picture Theater.

C. Sexually Oriented Theaters and Sexually Oriented Motion-picture Theaters shall also comply with the requirements of Section 18-114 of this Chapter.

D. An employee of a Sexually Oriented Theater or Sexually Oriented Motion-picture Theater must attend training given by the licensee concerning the requirements of this Chapter as they pertain to Sexually Oriented Theaters or Sexually Oriented Motion-picture Theaters, including but not limited to Sections 18-83, 18-85, 18-86, 18-110, 18-120, 18-121, 18-122, 18-123, and 18-130, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services; and, at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee identifying the date on which the training was provided and the specific topics discussed.

E. A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the Sexually Oriented Theater or Sexually Oriented Motion-picture Theater. At least one person so appointed shall be on the premises at any time the Sexually Oriented Theater or Sexually Oriented Motion-picture Theater is open.

F. An operator or a person appointed under Subsection (E) above shall at all times have the duty to ensure that each employee in the Sexually Oriented Theater or Sexually Oriented Motion-picture Theater has received the training required by Subsection (D) above and each employee is instructed to commit no act which would constitute a violation of this Chapter or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-114 Regulations Pertaining to Exhibition of Sexually Explicit Films, Photographs, Pictures or Videos

A. A person who operates or causes to be operated a Sexually Oriented Business, other than a Sexually Oriented Motel, which exhibits on the premises in a viewing room, a film, photograph, picture, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. An 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 license 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 shall be oriented to the north, or to some designated street or object, and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Chief of Police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since the previously submitted diagram was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Chief of Police.

4. The licensee commits an offense if the licensee permits a manager's station to be unattended by an employee at any time a customer is present on, in or about the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment or any other equipment allowing for the viewing of film, videos, photographs or other video reproduction. 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 customer 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 station.

6. The licensee commits an offense if the licensee permits a customer access to any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms.

7. The licensee, operator and any agents and employees present on the premises shall ensure: that the view area specified in Subsection (5) of this section remains unobstructed by any doors, curtains, partitions, walls, blinds, locks or other control-type devices, merchandise, display racks or other materials at all times that any customer is present on, in or about the premises; and, that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to Subsection (1) of this section.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than two (2.0) footcandles as measured at the floor level.

9. The licensee commits an offense if the licensee permits illumination of any area of the premises to which customers have access to be less than two (2.0) footcandles as measured at the floor level.

10. No viewing room or booth of less than 150 square feet of floor space shall be occupied by more than one (1) person at any time.

11. No licensee shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms or booths.

12. No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms or booths.

13. The licensee shall, during each business day, regularly inspect the walls of all viewing rooms or booths to determine if any openings or holes exist.

14. In a viewing room or booth of less than 150 square feet of floor space, the walls shall be no more than forty-eight (48) inches tall. At least one wall of any such viewing room or booth shall be visible in a direct unobstructed line of sight from the manager's station. Each wall or door of any such viewing room or booth shall be constructed of clear transparent glass, plastic or substantially equivalent materials that allow an unobstructed view of the entire interior of the viewing room or booth.

15. Live entertainment is prohibited in any viewing room or booth of less than 500 square feet of floor space, as well as any other room adjacent to or visible from any viewing room or booth.

16. The licensee or operator commits an offense if the licensee intentionally or knowingly allows a person to appear in a state of nudity or semi-nudity in, on or about the premises of a Sexually Oriented Business, other than a Sexually Oriented Motel, which exhibits on the premises in a viewing room of less than 500 square feet of floor space, a film, photograph, picture, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas.

17. A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in or on the premises of a Sexually Oriented Business, other than a Sexually Oriented Motel, which exhibits on the premises in a viewing room of less than 500 square feet of floor space, a film, photograph, picture, video cassette or other video reproduction which depicts specified sexual activities or specified anatomical areas.

18. It is a defense to prosecution under Subsections (16) and (17) of this section if the person was in a restroom not open to public view or persons of the opposite sex.

B. A person having a duty under Subsection (1) through (18) of Subsection (A) herein

commits a misdemeanor if he or she knowingly fails to fulfill that duty.

C. An employee of a Sexually Oriented Business that exhibits sexually explicit films, photographs, pictures or videos must attend training given by the licensee concerning the requirements of this Chapter as they pertain to such a business, including but not limited to Sections 18-83, 18-85, 18-86, 18-110, 18-120, 18-121, 18-122, 18-123, and 18-130, before the employee receives any compensation for the person's services. The licensee shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services; and, at least once a year thereafter. The licensee shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee identifying the date on which the training was provided and the specific topics discussed.

D. A licensee shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the Sexually Oriented Business as described in this Section. At least one person so appointed shall be on the premises at any time the Sexually Oriented Business as described in this Section is open.

E. An operator or a person appointed under Subsection (D) above shall at all times have the duty to ensure that each employee in the Sexually Oriented Business as described in this Section has received the training required by Subsection (C) above and each employee is instructed to commit no act which would constitute a violation of this Chapter or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Chapter.

(Ord. No. 1844, 3-24-09)

Sec. 18-115 Additional Regulations Pertaining to Adult Bookstores, Adult Novelty Stores and Adult Video Stores

A. A person who operates or causes to be operated an Adult Bookstore, Adult Novelty Store or Adult Video Store shall comply with the following requirements:

1. An application for a Certificate of Occupancy for an Adult Bookstore, Adult Novelty Store or Adult Video Store 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 shall be oriented to the north, or to some designated street or object, and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches (6"). The Building Official may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since the previously submitted diagram was

prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager's station may be made without the prior approval of the Building Official.

4. An owner, operator, agent or employee commits an offense if the owner, agent, operator or employee permits a manager's station to be unattended by an employee at any time a customer is present on, in or about the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any customer is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment or any other equipment allowing for the viewing of film, videos, photographs or other video reproduction. 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 customer 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 station.

6. An owner, operator, agent or employee commits an offense if the owner, operator, agent or employee intentionally or knowingly permits a customer access to any area of the premises that is not visible from the manager's station for any purpose, excluding restrooms.

7. The owners, operator and any agents and employees present on the premises shall ensure: that the view area specified in Subsection (5) of this section remains unobstructed by any doors, curtains, partitions, walls, merchandise, display racks or other materials at all times that any customer is present on, in or about the premises; and, that no customer is permitted access to any area of the premises which has been designated as an area in which customers will not be permitted in the application filed pursuant to Subsection (1) of this section.

8. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which customers are permitted access at an illumination of not less than two (2.0) footcandles as measured at the floor level.

9. An owner, operator, agent or employee commits an offense if the owner, operator, agent or employee intentionally or knowingly permits illumination of any area of the premises to which customers have access to be less than two (2.0) footcandles as measured at the floor level.

10. No viewing room or reading room may be occupied by more than one (1) person at any time.

11. No owner, operator, agent or employee shall allow openings or holes of any kind to exist between adjacent or adjoining viewing rooms or booths or reading rooms or

booths.

12. No person shall make or attempt to make an opening or hole of any kind between adjacent or adjoining viewing rooms or booths or reading rooms or booths.

13. The owner, operator, agent or employee shall, during each business day, regularly inspect the walls of all viewing rooms or booths and reading rooms or booths to determine if any openings or holes exist.

14. The walls of any viewing room or booth and any reading room or booth shall be no more than forty-eight (48) inches tall. At least one wall of any viewing room or booth shall be visible in a direct unobstructed line of sight from the manager's station. Each wall or door of any viewing room or booth shall be constructed of clear transparent glass, plastic or substantially equivalent materials that allow an unobstructed view of the entire interior of the viewing room or booth.

15. Live entertainment is prohibited in any viewing room or booth and any reading room or booth as well as any other room adjacent to or visible from any reading or viewing room or booth.

16. An owner, operator, agent or employee commits an offense if the owner, operator, agent or employee intentionally or knowingly allows a person to appear in a state of nudity or semi-nudity in, on or about the premises of an Adult Bookstore, Adult Novelty Store or Adult Video Store.

17. A person commits an offense if the person intentionally or knowingly appears in a state of nudity or semi-nudity in, on or about the premises of an Adult Bookstore, Adult Novelty Store or Adult Video Store.

18. It is a defense to prosecution under Subsections (16) and (17) of this section if the person was in a restroom not open to public view or persons of the opposite sex.

B. A person having a duty under Subsections (1) through (18) of Subsection (A) herein commits a misdemeanor if he or she knowingly fails to fulfill that duty.

C. An employee of an Adult Bookstore, Adult Novelty Store or Adult Video Store must attend training given by the licensee concerning the requirements of this Chapter as they pertain to such a business, including but not limited to Sections 18-83, 18-85, 18-86, 18-110, 18-120, 18-121, 18-122, 18-123, and 18-130, before the employee receives any compensation for the person's services. The owner, operator or agent shall provide this training to all employees at the beginning of employment before the employee receives any compensation for services; and, at least once a year thereafter. The owner, operator or agent shall maintain written records of the training provided to each employee pursuant to this subsection. These records shall include a signed and dated statement from each employee verifying the employee's attendance at and participation in training provided by the licensee identifying the date on which the training was provided and the specific topics discussed.

D. An owner, operator, or agent shall designate and appoint one or more individuals to manage, direct, and control the premises and operations of the Adult Bookstore, Adult Novelty

Store or Adult Video Store. At least one person so appointed shall be on the premises at any time the Adult Bookstore, Adult Novelty Store or Adult Video Store is open.

E. An operator or a person appointed under Subsection (D) above shall at all times have the duty to ensure that each employee in the Adult Bookstore, Adult Novelty Store or Adult Video Store has received the training required by Subsection (C) above and each employee is instructed to commit no act which would constitute a violation of this Chapter or which would provide grounds, or part of the grounds, for suspension or revocation of a license issued under this Chapter.

(Ord. No. 1844, 3-24-09)

Secs. 18-116–18-119 Reserved

Division 5. Miscellaneous

Sec. 18-120 Hours of Operation

No Sexually Oriented Business, except for a Sexually Oriented Motel, may remain open at any time between the hours of two o'clock (2:00) a.m. and eight o'clock (8:00) a.m. on weekdays and Saturdays, and two o'clock (2:00) a.m. and noon (12:00) p.m. on Sundays.

(Ord. No. 1844, 3-24-09)

Sec. 18-121 Prohibition Against Children in a Sexually Oriented Business

A licensee, owner, operator, agent or employee commits an offense if the licensee, owner, operator, agent or employee intentionally, knowingly, or recklessly allows a person under the age of eighteen (18) years on the premises of a Sexually Oriented Business.

(Ord. No. 1844, 3-24-09)

Sec. 18-122 Conspicuous Signage and Markings Required

A. A licensee or operator commits an offense if the licensee or operator fails to display a sign on the interior of the Sexually Oriented Business premises notifying customers and employees of the prohibition prescribed by Subsections 18-122(A), (B), (C) and (D), above. The sign must be prominently and continuously displayed where customers enter the premises, and immediately adjacent to each stage required by Section 6.03(B), and must state in letters at least two inches high:

> TOUCHING OR TIPPING AN EMPLOYEE WHO IS IN A STATE OF NUDITY OR SEMI-NUDITY IS A CRIME (MISDEMEANOR), PUNISHABLE BY FINE UP TO $2,000. PATRONS SHALL REMAIN AT LEAST SIX FEET FROM ALL UNENCLOSED PERFORMANCE STAGES WHILE A PERSON IS PERFORMING ON SAID PERFORMANCE STAGE.

The Chief of Police may require, at the time of issuance or renewal of the license, the licensee to also display the sign in a language other than English if he determines that a substantial

portion of the expected customers speak the other language as their familiar language. Upon notification, a licensee commits an offense if the sign does not contain this language in the required language, in addition to English.

B. A licensee or operator commits an offense if the licensee, operator or employee fails to prominently and continuously display a two inches wide glow-in-the-dark line on the floor of the Sexually Oriented Business marking a distance of six feet from each unenclosed stage on which an employee in a state of nudity may appear in accordance with Section 18-122(A).

(Ord. No. 1844, 3-24-09)

Secs. 18-123–18-129 Reserved

Division 6. Enforcement

Sec. 18-130 Violation a Misdemeanor

A. Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this ordinance shall be guilty of a Class C misdemeanor, and upon conviction thereof shall be fined an amount not to exceed Two Thousand Dollars and No Cents ($2,000.00) for each offense, as provided by Section 54.001 of the Local Government Code, except that any person, firm, corporation, agent or employee thereof who violates a provision of this ordinance related to licenses, permits or inspections as set forth in Division Two of this ordinance shall be guilty of a Class A misdemeanor.

B. Each day that a violation is permitted to exist shall constitute a separate offense.

C. The refusal to issue a permit based on ineligibility shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the refusal to issue a permit based on ineligibility.

D. The revocation or suspension of a permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit.

(Ord. No. 1844, 3-24-09)

Sec. 18-131 Notice of Violation

The City shall send to a Sexually Oriented Business written notice of each citation issued to an operator or employee of the business for an alleged violation of Sections 18-120, 18-121, 18-123, or any provision of Division 5 of this Chapter. The notice will be sent within three (3) business days of the issuance of the citation to the operator or employee. The notice will be sent by certified mail, return receipt requested, to the business address of the Sexually Oriented Business as it appears on its license application, to the attention of the licensee, as it appears on the license application. A failure of the City to provide such notice is not a violation of this Chapter. It is not a defense to a citation issued to an employee or operator for an alleged violation of Sections 120, 18-121, 18-123, or any provision of Division 5 of this Chapter, that notice of the issuance of that citation was not given to the Sexually Oriented Business in

accordance with this Section.

(Ord. No. 1844, 3-24-09)

Secs. 18-132–18-139 Reserved

Division 7. Sign Requirements

Sec. 18-140 Sign Requirements

A. Notwithstanding any provision of the Euless Development Code or any other city ordinance, code, or regulation to the contrary, the owner or operator of any sexually oriented business or any other person commits an offense if he erects, constructs, or maintains any sign for the establishment other than one primary sign and one secondary sign, as provided in this section.

B. A primary sign may have no more than two display surfaces. Each display surface must:

(1) not contain any flashing lights;

(2) be a flat plane, rectangular in shape;

(3) not exceed 75 square feet in area; and

(4) not exceed 10 feet in height or 10 feet in length.

C. A secondary sign may have only one display surface. The display surface must:

(1) not contain any flashing lights;

(2) be a flat plane, rectangular in shape;

(3) not exceed 20 square feet in area;

(4) not exceed five feet in height or four feet in width; and

(5) be affixed or attached to a wall or door of the establishment.

D. A primary or secondary sign must contain no photographs, silhouettes, drawings, or pictorial representations of any manner, and may contain only:

(1) the name of the establishment; and/or

(2) one or more of the following phrases:

(A) “Adult arcade.”

(B) “Adult bookstore or adult video store.”

(C) “Adult cabaret.”

(D) “Adult motel.”

(E) “Adult motion-picture theater.”

(F) “Escort agency.”

(G) “Nude model studio.”

E. In addition to the phrases listed in Subsection (d)(2) of this section, a primary sign for an adult motion-picture theater may contain the phrase, “Movie Titles Posted on Premises,” and a primary sign for an adult bookstore or adult video store may contain the word “DVD’s”.

F. Each letter forming a word on a primary or secondary sign must be of a solid color, and each letter must be the same print-type, size, and color. The background behind the lettering on the display surface of a primary or secondary sign must be of a uniform and solid color.

(Ord. No. 1844, 3-24-09)

Secs. 18-141–18-149 Reserved

Division 8. Location Requirements

Sec. 18-150 Location Requirements

Sexually oriented businesses must comply with the location requirements prescribed in section 84-183.

(Ord. No. 1844, 3-24-09)

CHAPTERS 19 - 21
RESERVED

CHAPTER 22
EMERGENCY MANAGEMENT*(36)

ARTICLE I. IN GENERAL

Secs. 22-1–22-50 Reserved

ARTICLE II. CIVIL EMERGENCIES

Sec. 22-51 Director; coordinator

(a) There exists the office of emergency management director of the city, which shall be held by the mayor in accordance with state law. 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 22-52. He may delegate authority for execution of these duties to the emergency management coordinator, but ultimate responsibility for such execution shall remain with the director.

(b) An emergency management coordinator may be appointed by and serve at the pleasure of the director.

(Code 1974, § 43/4-1)

Cross reference–Officers and employees, § 2-116.

Sec. 22-52 Powers and duties of director

The powers and duties of the emergency management 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 operations 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 operations plan. The powers of the director shall include the authority to declare a state of emergency, but such action shall 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 an emergency, as provided for in this article, as well as a continuing study of the need for amendments and improvements in the emergency operations plan. The duties and responsibilities of the emergency management director shall include the following:

(1) The direction and control of the actual emergency operations of the emergency management organization as well as the training of emergency management personnel.

(2) The determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.

(3) The maintenance of necessary liaison with other municipal, county, district, state, regional, federal, or other emergency management organizations.

(4) The marshaling, after declaration of an emergency as provided for in this article, of all necessary personnel, equipment or supplies from any department of the city to aid in the carrying out of the provisions of the emergency operations plan.

(5) The issuance of all necessary proclamations as to the existence of an emergency and the immediate operational effectiveness of the city emergency operations plan.

(6) 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.

(7) 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 countywide coordination of emergency management efforts.

(8) 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.

(9) The authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.

(Code 1974, § 43/4-2)

Sec. 22-53 Disaster services council

The mayor is hereby authorized to join with the county judge and the mayors of the other cities in the county in the formation of a disaster services council for the county, and shall have the authority to cooperate in the preparation of a joint emergency operations plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a countywide program of emergency management insofar as such program may affect the city.

(Code 1974, § 43/4-3)

Sec. 22-54 Members of 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 operations plan, as well as all organized volunteer emergency management associations or groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency operations plan. Such plan shall set forth the form of the organization, establish and designate divisions and functions, assign tasks, duties and powers, and designate officers and employees to carry out the provisions of this article. Insofar as possible, the form of the organization, titles, and terminology shall conform to the recommendations of the state division of disaster emergency services and of the federal government.

(Code 1974, § 43/4-4)

Sec. 22-55 Oath required of members of organization

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, and the ordinances of the city.

(Code 1974, § 43/4-5)

Sec. 22-56 Authority of article to supersede other legislation, orders, etc

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

(Code 1974, § 43/4-6)

Sec. 22-57 Construction of article

This article shall not be construed so as to conflict with any state or federal statute or with any military or naval order, rule or regulation.

(Code 1974, § 43/4-7)

Sec. 22-58 Liability of city and individuals acting pursuant to provisions of this article

This article is an exercise by the city of its governmental functions for the protection of the public peace, health, and safety and neither the city, the agents and representatives of the city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of such activity. Any person owning or controlling real estate or other premises who voluntarily and with compensation grants to the city a license or privilege, or otherwise permits the city to inspect, designate and use the whole or any part 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.

(Code 1974, § 43/4-8)

Sec. 22-59 Approval of city council required to spend public funds or make contracts

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city 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.

(Code 1974, § 43/4-9)

Sec. 22-60 Unauthorized use of signals

Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

(Code 1974, § 43/4-10)

Sec. 22-61 Obstruction of member of organization prohibited; penalty for violations of article

It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the civil preparedness organization in the enforcement of any rule or regulation issued pursuant to this article, or to do any act forbidden by any rule or regulation issued pursuant to the authority contained in this article. It shall likewise be unlawful for any person to wear, carry or display any emblem, insignia or any other means of identification as a member of the civil preparedness 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 article shall be punishable by fine as provided in section 1-12 of this Code for violations of provisions governing fire safety, public health and sanitation.

(Code 1974, § 43/4-11; Ord. No. 1077, § X, 5-12-92)

CHAPTERS 23 - 25
RESERVED

CHAPTER 26
EMERGENCY SERVICES

ARTICLE I. IN GENERAL

Secs. 26-1-26-30. Reserved.

ARTICLE II. ALARM SYSTEMS*(37)

Sec. 26-31 Purpose

(a) The purpose of this article is to encourage alarm users and alarm companies to properly use and maintain the operational effectiveness of alarm systems in order to improve the reliability of alarm systems and reduce or eliminate false alarms.

(b) This article governs alarm systems intended to summon law enforcement and requires registration, establishes fees, provides for penalties for violations, establishes a system of administration, and sets conditions for revocation of registration.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-32 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm dispatch request means a notification to a law enforcement agency that an alarm, either manual or automatic, has been activated at a particular alarm site.

Alarm installation company means a person in the business of selling, providing, maintaining, servicing, repairing, altering, replacing, moving or installing an alarm system in an alarm site. This definition shall also include individuals or firms that install and service the alarm systems that will be used in their private or proprietary facilities. This does not include persons doing installation or repair work where such work is performed without compensation of any kind (i.e., do-it-yourselfers).

Alarm permit means authorization granted by the chief of police to an alarm user to operate an alarm system.

Alarm site means a single fixed premise or location served by an alarm system or systems. Each unit, if served by a separate alarm system in a multiunit building or complex, shall be considered a separate alarm site.

Alarm system means a device or series of devices, including, but not limited to, hardwired systems and systems interconnected with a radio frequency method such as cellular or private radio signals, which emit or transmit a remote or local audible, visual or electronic signal indicating an alarm condition and intended to summon law enforcement response, including local alarm systems. Alarm system does not include:

(1) An alarm installed in a vehicle or on someone’s person unless the vehicle or the personal alarm is permanently located at a site; or

(2) An alarm designed to alert only the inhabitants of the premises.

Alarm user means any person who has contracted for monitoring, repair, installation or maintenance service from an alarm installation company or monitoring company for an alarm system, or who owns or operates an alarm system which is not monitored, maintained or repaired under contract.

Alarm permit fee means the fee structure as determined by chapter 30 of this Code which includes new permits and renewals.

Appeal process means the process that a permit holder aggrieved by a decision must make by filing a formal request in writing to the city secretary requesting a change in, or confirmation of, that decision made regarding an alarm issue.

Arming station means a device that allows control of an alarm system.

Automatic voice dialer/automatic alarm notification means any electrical, electronic, mechanical, or other device capable of being programmed to send a prerecorded voice message, when activated, over a telephone line, radio or other communication system to law enforcement.

Burglar alarm notification means the notification intended to summon police, which is initiated or triggered manually or by an alarm system designed to respond to a stimulus characteristic of unauthorized intrusion.

Cancellation means the process where response is terminated when a monitoring company (designated by the alarm user) for the alarm site notifies the responding law enforcement agency that there is not an existing situation at the alarm site requiring law enforcement agency response after an alarm dispatch request.

Certificate of compliance means a written certification from an alarm installation company stating that the alarm system has been inspected and repaired (if necessary) and/or additional training has been conducted by the alarm installation company or law enforcement agency.

Chief means the chief of police or designated representative.

City manager means the city manager of the city or his designated representative.

Duress alarm means a silent alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system and requires law enforcement response.

False alarm notification means an alarm dispatch request to a law enforcement agency when a response is made by the law enforcement agency within 30 minutes of the alarm dispatch request and the responding law enforcement officer finds from an inspection of the interior and/or exterior of the alarm site no evidence of a criminal offense or attempted criminal offense.

Hearing appeal officer means the city manager.

Holdup/robbery alarm means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress or immediately after it has occurred.

Law enforcement authority means the chief of police.

License means a license issued by the state department of public safety private security bureau to an alarm installation company and monitoring company to sell, install, monitor, repair, or replace alarm systems.

Local alarm means an alarm system that emits a signal at an alarm site that is audible or visible from the exterior of the structure.

Monitoring means the process by which a monitoring company receives signals from an alarm system and relays an alarm dispatch request to the municipality for the purpose of summoning law enforcement to the alarm site.

Monitoring company means a person in the business of providing monitoring services.

Offense means operating an alarm system without a valid permit, which shall include a revoked permit, or noncompliance where a duty is imposed in this article.

Panic alarm means an audible alarm generated by the deliberate activation of a panic device.

Permit holder means the person designated in the application who is responsible for responding to alarms and giving access to the site and who is responsible for proper maintenance and operation of the alarm system and payment of fees.

Person means an individual, corporation, partnership, association, organization or any legal entity.

Responder means an individual capable of reaching the alarm site within 30 minutes and having access to the alarm site, the code to the alarm system and the authority to approve repairs to the alarm system.

Verify means an attempt by the monitoring company or its representative to contact the alarm site and/or alarm user by telephone, whether or not actual contact with the person is made, to determine whether an alarm signal is valid before requesting law enforcement dispatch following the alarm verification and notification procedure.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-33 Permit required; application; transferability; false statements

(a) A person commits an offense if he operates or causes to be operated an alarm system without a valid alarm permit issued by the chief.

(b) Any person without an existing valid permit for an alarm system on the effective date of this article must apply for a permit within 30 days of the effective date of this article.

(c) All existing permits will expire on the anniversary date of issuance. Any person, who has an existing permitted alarm system, must complete an application form and remit the required administrative fee within 30 days following the anniversary date the permit was issued or if such date is unknown, within 30 days following notification by the city.

(d) Upon receipt of the required administrative fee and completed application form, the chief shall issue a permit except as otherwise provided herein.

(1) A completed permit application must contain the following information and be complete, true and accurate in its entirety:

a. The name, address and telephone number of the permit holder who will be responsible for the proper maintenance and operation of the alarm system and payment of fees assessed under this article;

b. The classification of the alarm site as either residential or commercial,

including whether the alarm site is an apartment or suite, and if so, the building number, the suite or apartment number;

c. The purpose of each alarm system located at the alarm site, i.e., burglary, robbery, panic/duress;

d. The name and telephone number of the alarm system monitoring company that has agreed to receive calls for the permitted alarm system, if applicable;

e. Except as otherwise provided herein, at least three names and telephone numbers of contacts (responders) that are able to respond to the alarm premise within 30 minutes with a key or means of access to the location if needed by law enforcement; and

f. Other information required by the chief that is necessary for the enforcement of this article.

(e) An alarm permit is nontransferable; however, the individual designated to respond to an alarm may be changed. A permit holder shall inform the chief in writing of any changes that alter information listed on the permit application within two business days from the change. No fee will be assessed for such changes.

(f) All application fees owed by an applicant must be paid before a permit may be issued.

(g) No permit fee shall be required for any person age 65 or older at the time of such application.

(h) Pursuant to state law, no permit shall be required for city, state, county, independent school district and federal government entities.

(i) Any false statement or misrepresentation of a material fact made by an applicant or person for the purpose of obtaining an alarm permit or renewal, or while making a change thereto, shall be sufficient cause for refusal to grant a permit, suspension of a permit or revocation of a permit by the police department.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-34 Authorization of other types of alarms; authority to prescribe additional regulations

(a) A person shall not install or maintain an alarm system, except for the purpose of eliciting responses to burglaries, robberies, or panic/duress situations, unless specifically authorized by the chief.

(b) If innovations in alarm systems or other types of alarm devices adversely affect emergency services of the city, the chief may promulgate other rules and regulations in order to protect the city's emergency service.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-35 Permit fee

A nonrefundable permit fee, as determined from time to time by city council for residential permits and commercial permits, is required for issuance of a permit. Permits issued will expire on the last day of the month of expiration. It is the permit holder's responsibility to renew the permit within 30 days of the expiration date of the permit. The alarm permit fee is located in chapter 30 of this Code and is incorporated herein.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-36 Penalties related to false alarms and noncompliance

(a) If within the preceding 12-month period, eight or more false burglar alarm notifications are emitted from an alarm site, the chief may revoke the permit of the alarm site.

(b) The chief shall assess the permit holder a fee for each false alarm notification emitted from the alarm site. The fee for each false alarm shall be as determined from time to time by city council, as set out in chapter 30 of this Code.

(c) A permit holder shall pay a fee assessed under this section within 30 days after receipt of notice of assessment or pay a penalty fee as determined from time to time by city council.

(d) The permit holder will be exempt from any fee charged by chapter 30 of this Code for a false alarm notification which is later shown to have been, in the chief's sole determination, justified or which was due to a natural or manmade catastrophe or other situation specifically exempted by the chief.

(e) The alarm company shall pay a fee as determined from time to time by city council in chapter 30 of this Code for providing the wrong permit information to the responding agency.

(f) An alarm user shall pay a fee as determined from time to time by city council for failure to provide a responder within 30 minutes when requested by law enforcement authority.

(g) If cancellation occurs prior to law enforcement arriving at the scene, this is not a false alarm for the purposes of this article.

(h) If law enforcement takes longer than 30 minutes to respond to the alarm dispatch request, this is not a false alarm for the purposes of this article.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-37 Alarm system operation and maintenance

A permit holder shall:

(1) Maintain the premises containing an alarm system in a manner that ensures proper operation of the alarm system;

(2) Maintain the alarm system in a manner that will minimize false alarm notifications;

(3) Respond, or designate a representative to respond, within 30 minutes after requested by the city to repair or inactivate a malfunctioning alarm system, to provide access to the premises or to provide security for the premises;

(4) Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report;

(5) Notify the police department prior to activation of an alarm for maintenance purposes; and

(6) Adjust the mechanism, or cause the mechanism to be adjusted, so that an alarm signal will sound no longer than 15 minutes after being activated.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-38 Reporting of alarm through relaying intermediary

A permit holder shall not report an alarm signal through a relaying intermediary that does not meet the requirements of this article, and any rules and regulations promulgated by the chief, or is not licensed by the state board of private investigators and private security agencies, or is not the owner of the property.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-39 Monitoring procedures

Any alarm company engaged in the business of monitoring alarm systems in the city shall:

(1) Report alarm signals only using telephone numbers designated by the chief;

(2) Before requesting police response to an alarm signal, verify every alarm signal, except a duress, robbery, or panic alarm activation, by a telephone call to the alarm site;

(3) When reporting an alarm notification to the city, provide the alarm permit number and address of the alarm site from which the alarm notification originated.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-40 Duties of an alarm company

(a) On the installation or activation of an alarm system, an alarm systems company shall distribute to the occupant of the alarm system location information summarizing:

(1) The applicable law relating to false alarms, including the potential for penalties and revocation or suspension of a permit;

(2) How to prevent false alarms; and

(3) How to operate the alarm system.

(b) An alarm system company shall notify the chief of an installation or activation of an alarm system not later than the 30th day after the date of the installation or activation. The alarm systems company shall provide to the municipality:

(1) The alarm systems company name;

(2) The alarm systems company license number;

(3) The name of the occupant of the alarm system location;

(4) The address of the alarm system location; and

(5) The date of installation or activation.

(c) Information provided to a governmental body under this section is confidential and subject to disclosure only as provided under V.T.C.A., Occupation Code § 1702.284.

(d) An alarm systems company commits an offense if the company violates subsection (a) or (b).

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-41 Alarm reset

A permit holder of an alarm system that utilizes a local alarm shall adjust the mechanism or cause the mechanism to be adjusted so that, upon activation, the local alarm will not transmit another alarm signal without first being manually reset.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-42 Inspection

Upon reasonable notification, the chief may inspect an alarm site and alarm system of a permit holder at reasonable times.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-43 Grounds for denial of a permit or revocation

(a) Grounds for denial of a permit.

(1) The chief shall issue a permit to the applicant unless one or more of the following conditions are present:

a. The applicant fails to provide all of the information requested on the application

or submits an incomplete application;

b. The applicant gives false, misleading or untrue information of material fact on the application;

c. The operation, as proposed by the applicant, would not comply with all applicable laws, including, but not limited to, this article or the city building, zoning or health codes; or

d. The applicant has failed to pay any fee assessed pursuant to this article that is due and owing.

(2) Denial of an alarm system permit shall be effected by written denial, setting forth the grounds for denial and sent certified mail, return receipt requested.

(b) Grounds for revocation of a permit.

(1) The chief may revoke an alarm permit if he determines that:

a. The permit holder, or his designated agent, has given false, misleading or untrue information of material fact in any record or report required by this article;

b. The permit holder fails to maintain the alarm system in accordance with the requirements of this article;

c. The operation of the alarm system by the permit holder has demonstrated a history of unreliability, as set forth in subsection (c) of this section; or

d. There have been eight or more false alarms during the preceding 12-month period.

(2) A person commits an offense if he operates an alarm system during the period in which his alarm permit has been revoked.

(c) Grounds for nonrenewal of a permit.

(1) The alarm system has a history of unreliability and the applicant has failed to make alterations or corrections to the system to reasonably assure abatement of false alarms. Any alarm system generating eight or more false alarm notifications within a preceding 12-month period shall be presumed unreliable, and the alarm permit shall be revoked or suspended, after the city provides 30-days' written notice to the permit holder.

(2) A person commits an offense if he operates an alarm system during the period in which his alarm permit has not been renewed.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-44 Reinstatement of a permit

(a) A person whose alarm permit has been revoked may have the permit reinstated if the person:

(1) Submits an updated application and pays a permit reinstatement fee as determined from time to time by city council in accordance with this article; and

(2) Presents evidence the problem with the alarm system has been corrected.

(b) A permit that has been reinstated shall expire on the same date it was originally set to expire.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-45 Appeal from penalty fee, denial, or revocation of a permit

(a) Any applicant, permit holder, alarm installation company or monitoring company aggrieved by the decision to assess a penalty fee by the chief of police may appeal the decision to the hearing appeal officer by filing with the city secretary a written request for a hearing, setting forth the reasons for the appeal within ten days after the chief of police renders the decision. The filing of a request for an appeal hearing with the city secretary stays the action of the chief of police in assessing a penalty fee until the hearing officer makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief of police is final.

(b) If the chief of police refuses to issue or revokes a permit, he shall send to the applicant or permit holder by certified mail, return receipt requested, written notice of his action and a statement of the right to an appeal. The applicant or permit holder may appeal the decision of the chief of police to the hearing appeal officer by filing with the city secretary a written request for a hearing, setting forth the reasons for the appeal, within ten days after receipt or the notice from the chief of police. The filing of a request for an appeal hearing stays an action of the chief of police in revoking a permit until the hearing appeal officer makes a final decision. If a request for an appeal hearing is not made within the ten-day period, the action of the chief of police is final.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-46 Notification

The alarm user shall be notified in writing when the alarm permit will be revoked. The notification shall include:

(1) The fact that the permit will be revoked after the eighth false alarm, excluding duress, holdup and panic alarms; and

(2) A description of the appeal procedure available to the alarm user.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-47 Indirect alarm reporting

A person who is engaged in the business of relaying alarm notifications to the city shall:

(1) Communicate alarm notifications to the city in a manner and form determined by the chief;

(2) Provide a local or toll free call-back telephone number when requested by the police department;

(3) Contact a representative of the alarm site when requested by the police department; and

(4) Comply with all other requirements of this article and any rules and regulations promulgated by the chief.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-48 Direct alarm reporting

An alarm system, other than an alarm system in a local, state, or federal governmental entity or in a financial institution, which transmits automatic alarm notifications directly to the police department, shall be prohibited.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-49 Alarm system operating instructions

A permit holder shall maintain at each alarm site a complete set of written operating instructions for each alarm system. Special codes, combinations or passwords must not be included in these instructions.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-50 Alarm records

(a) The communication employee receiving the alarm notification shall cause to be recorded such information as necessary to permit the chief to maintain records, including, but not limited to, the following information:

(1) Identification of the permit holder;

(2) The alarm permit number;

(3) Identification of the alarm site;

(4) The communication received time, dispatch time and personnel arrival time;

(5) The date of occurrence;

(6) The disposition of the alarm call; and

(7) The name of the permit holder's representative on premises, if any.

(b) The responding law enforcement personnel shall prepare and submit appropriate reports in regards to any events that contributed to the alarm notification as determined by the investigation.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-51 System performance reviews and appeals

(a) If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation, the chief may require a conference with an alarm permit holder to review circumstances of each alarm notification.

(b) If there is belief that an alarm is the result of circumstances beyond the reasonable control of the permit holder, the permit holder or the permit holder's representative may request a conference with the chief.

(c) If the chief determines that an alarm is the result of circumstances within the reasonable control of the permit holder, the permit holder or the permit holder's representative may appeal his decision as set out in the appeal process in section 26-45.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-52 Violations; penalty

(a) An alarm company, an alarm permit holder or a person in control of an alarm system commits an offense if he violates any provision of this article that imposes upon him a duty or responsibility.

(b) A person who violates a provision of this article is guilty of a separate offense for each day or portion of a day in which the violation is committed or continues, and each offense is punishable by a fine not to exceed $500.00 as follows:

(1) For the first conviction, $200.00;

(2) For the second through tenth conviction, $250.00; and

(3) For each subsequent conviction, $500.00.

(c) In addition to prohibiting or requiring certain conduct of individuals, it is the intent of this article to hold a corporation, partnership or other association criminally responsible for acts or omissions performed by an agent acting in behalf of the corporation, partnership or other association, and within the scope of employment. A person or business utilizing an alarm system shall maintain at each alarm site a complete set of written operating instructions for

each alarm system. Special codes, combinations or passwords must not be included in these instructions.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-53 Confidentiality

In the interest of public safety, subject to the provisions of V.T.C.A., Government Code ch. 552, information contained in and gathered through the alarm permit applications, records relating to alarm dispatch requests and applications for appeals shall be held in confidence by all employees or representatives of the city and by any third-party administrator or employees of a third-party administrator with access to such information. This information shall not be subject to public inspection. Public interest is served by not disclosing said information to the public and clearly outweighs the public interest served by disclosing said information.

(Ord. No. 1863, § 2, 9-8-09)

Sec. 26-54 Government immunity

The issuance of an alarm permit and/or the provisions set forth in this article are not intended to, nor do they create a contract, duty or obligation, either expressed or implied, of response. Any and all liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained. By applying for an alarm permit, the alarm user acknowledges that law enforcement response may be influenced by factors such as: the availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions and staffing levels.

(Ord. No. 1863, § 2, 9-8-09)

Secs. 26-55–26-85 Reserved

ARTICLE III. EMERGENCY MEDICAL SERVICE*(38)

Sec. 26-86 Provision of service

(a) The city shall provide emergency medical service within the corporate limits of the city and outside such corporate limits under such mutual aid agreements as may be from time to time established by and between the city and other political subdivisions and as provided in this article.

(b) Emergency medical service may be provided to injured or ill persons outside the corporate limits of the city when a mutual aid agreement exists by and between the city and the political subdivision wherein such injured or ill person shall be located, or upon determination of the existence of emergency circumstances by the fire chief or his designate.

(c) No person shall provide ambulance service for the transport of persons from locations within the corporate limits of the city except only for nonemergency calls, transfers or the transport of deceased persons, except as may be specifically authorized under mutual aid

agreements of the city or by the fire chief of the city or his designate, upon the determination of the existence of an emergency as provided in section 26-90.

(Code 1974, § 11-46)

Sec. 26-87 Authorization of city manager to establish; operation of service by fire department

The city manager is authorized to provide for the equipping, operation and administration of such emergency medical service, which emergency medical service shall be operated by the fire department and shall be under the supervision and control of the chief of the fire department, subject to the guidelines established in this article and under such rules and regulations as the chief of the fire department shall, with the approval of the city manager, from time to time promulgate for the proper operation thereof.

(Code 1974, § 11-47)

Sec. 26-88 Designation of medical director

The city manager shall designate an emergency medical director who shall be a physician licensed to practice medicine in the state and who shall advise the chief of the fire department in the administration, equipping, training and operation of the emergency medical service.

(Code 1974, § 11-48)

Sec. 26-89 Requests for service; authority of ambulance attendants

The fire department shall provide emergency medical service, and requests for emergency medical service shall be made to the police department and/or the fire department. The chief of the fire department and chief of the police department shall establish the appropriate procedures, rules and regulations for the receipt and coordination of requests for emergency medical service and the dispatch of fire department personnel and equipment in response thereto. Fire department emergency medical attendants shall have the authority to pick up and transport any injured or sick persons found on public or private property as determined by such emergency medical attendants to then and there have need for emergency care and/or transport for such injury or illness. Emergency medical attendants, under rules and regulations promulgated as provided in this article, shall have the sole authority to determine the medical facility to which the injured or ill person requiring emergency medical transport shall be taken.

(Code 1974, § 11-49)

Sec. 26-90 Establishment of fees and charges; responsibility for payment

Fees and charges for emergency medical service provided by the city will be as established in section 30-30. The person for whom emergency medical care and/or transport has been provided or, if such person is under disability, such person’s parent, spouse or guardian shall be responsible for the payment of all fees or charges for such emergency medical care and/or transportation, which fees shall be payable to the city in accordance with chapter 30.

(Code 1974, § 11-50)

Cross reference–Fees for emergency medical services, § 30-30.

Sec. 26-91 False requests prohibited

No person shall initiate, communicate or request the dispatch of emergency medical service of the city knowing that such request is false or baseless.

(Code 1974, § 11-51)

Sec. 26-92 Hindrance, interference or obstruction of emergency medical personnel prohibited

No person shall, with intent, hinder, interfere or obstruct personnel of the fire department in providing emergency medical care or transport for any person.

(Code 1974, § 11-52)

Sec. 26-93 Penalty for violation of article

Any person violating the terms and provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Any such violation shall be deemed a violation of a provision governing public health under section 1-12 of this Code.

(Code 1974, § 11-53; Ord. No. 1077, § XXI, 5-12-92)

Secs. 26-94–26-149 Reserved

ARTICLE IV. STANDARD OF CARE

Sec. 26-150 Standard of care for emergency action

Every officer, agent or employee of the city, and every officer, agent or employee of an authorized provider of emergency services, including, but not limited to every unit of government or subdivision thereof, while responding to emergency calls or reacting to emergency situations, regardless of whether any declaration of emergency has been declared or proclaimed by a unit of government or subdivision thereof, is hereby authorized to act or not to act in such a manner to effectively deal with the emergency. An action or inaction is “effective” if it in any way contributes or can reasonably be thought by the provider of such emergency service to contribute to preserving any lives or property. This section shall prevail over every other ordinance of the city and, to the extent to which the city has the authority to so authorize, over any other law establishing a standard of care in conflict with this section. Neither the city nor the employee, agent, or officer thereof, or other unit of government or subdivision thereof or its employees, agents or officers shall be liable for failure to use ordinary care in such emergency. It is the intent of the city council, by passing this article, to assure effective action in

emergency situations by those entrusted with the responsibility of saving lives and property by protecting such governmental units from liability, and their employees, agents, and officers from non-intentional tort liability to the fullest extent permitted by statutory and constitutional law. This section shall be liberally construed to carry out the intent of the city council.

(Ord. No. 1220, § 1, 10-10-96)

CHAPTERS 27 - 29
RESERVED

CHAPTER 30
FEES*(39)

Sec. 30-1 Alarm permit fee

Residential permits: $30.00 per year.

Commercial permits: $100.00 per year.

(Code 1974, § 11/2-21/4.2(b); Ord. No. 1210, § 4, 8-13-96; Ord. No. 1863, § 3, 9-8-09)

Cross reference–Security alarm permit required, § 26-61.

Sec. 30-2 Penalties related to false alarms and noncompliance

Fee for each false burglary alarm in the preceding 12-month period:

4 to 5: $50.00.

6 to 8: $75.00.

After 8: $100.00.

Fee for each false robbery alarm in the preceding 12-month period:

4 to 7: $75.00.

After 7: $100.00.

Each false panic/duress alarm in the preceding 12-month period:

4 to 7: $75.00.

After 7: $100.00.

Providing the wrong permit information to the responding agencies: $25.00.

Failure to provide a responder within 30 minutes when requested by law enforcement authority: $50.00.

A permit holder shall pay a fee assessed under this section within 30 days after receipt of notice of assessment or be subject to a ten percent penalty fee.

(Code 1974, § 11/2-21/4.9(a); Ord. No. 1210, § 5, 8-13-96; Ord. No. 1863, § 3, 9-8-09)

Cross reference–Service fee required for alarms in excess of a certain number, § 26-38.

Sec. 30-2-1 Reinstatement of a permit

Permit reinstatement fee: $100.00.

(Ord. No. 1863, § 3, 9-8-09)

Sec. 30-3 Alcoholic beverages

Alcoholic beverage permits (set by state–One-half of state fee).

(Code 1974, § 11/2-21/2)

Cross reference–Alcoholic beverage permit required, § 6-1.

Sec. 30-4 Animals

(a) Impoundment of neutered or spayed animal:

First impoundment: $20.00.

Second impoundment: $35.00.

Third impoundment: $45.00.

Fourth impoundment: $95.00.

(b) Impoundment of non-surgically altered animal:

First impoundment: $35.00.

Second impoundment: $60.00.

Third impoundment: $85.00.

Fourth impoundment: $185.00.

(c) Rabies vaccination (issuance of a receipt): $15.00.

(d) Feed and care, per day: $15.00.

(e) Impoundment at owner's request:

If picked up by animal control officer: $15.00.

If delivered by owner: $10.00.

(f) Poundage for all estrays (livestock):

First impoundment: $50.00.

Second impoundment: $100.00.

Third impoundment: $150.00.

(g) Feed and care for estrays (livestock):

Per day: $50.00.

(h) The owners shall pay for any veterinarian or drug fees incurred for the animal while it is in the custody of the city.

(i) Newspaper advertisement: Actual cost.

As determined from time to time, and if more than one animal is advertised in the same advertisement, the cost per head shall be divided equally among the animals sold or redeemed.

(j) Adoption of animals:

Dogs: $10.00.

Plus cost of rabies vaccination and applicable spay or neuter fees.

Cats: $5.00.

Plus cost of rabies vaccination and applicable spay or neuter fees.

Cat spay: $115.00.

Cat neuter: $79.00.

Dog neuter: $130.00.

Dog spay (2–20 lbs.): $135.00.

Dog spay (21–40 lbs.): $155.00.

Dog spay (41–60 lbs.): $175.00.

Dog spay (61–80 lbs.): $195.00.

Dog spay (81–100 lbs.): $215.00.

Dog spay (100+ lbs.): $225.00.

(k) Registration fee for dogs and cats without city registration tag picked up by the city animal control: $10.00.

The fee for spaying and neutering animals will be collected. The animal(s) will be transported by the city animal shelter personnel to a local veterinarian. The animal to be adopted may be claimed at the local veterinarian office. Should a person wanting to adopt an animal desire to take the adopted animal to a veterinarian of their choice, a refundable deposit will be required in the amount below:

Dog: $200.00.

Cat: $100.00.

Proof of surgical alteration must be returned to the city animal shelter, at which time a request to refund the deposit will be submitted to the city finance department for payment (allow two weeks for payment). Failure to provide proof of surgical alteration will result in loss of deposit and issuance of a citation.

(l) Dangerous dog registration:

Dangerous dogs kept within city, per year: $50.00.

Dangerous dogs sold to or moved to another address within the city, per move: $25.00.

(Code 1974, § 11/2-3.8; Ord. No. 1109, § 5, 4-13-93; Ord. No. 1179, § I, 6-27-95; Ord. No. 1572, § 1, 1-14-03; Ord. No. 1811, § 2, 5-27-08; Ord. No. 1877, § 1, 5-25-10; Ord. No. 1878, § IX, 6-8-10)

Cross reference–Fee for impoundment, etc., § 10-64; guard dog identification tag required, § 10-73; adoption of dogs and cats, § 10-168.

Sec. 30-5 Contractor fees

(a) A contractor registration fee shall be paid in addition to other provisions provided in chapter 14. The fee for all contractors establishing registration data shall be $100.00 annually (January 1st through December 31st).

(b) Re-inspection or after hours or other related fees.

Building re-inspection per hour: $47.00.

Building after hours (two-hour minimum): $94.00.

Plumbing re-inspection per hour: $47.00.

Plumbing after hours (two-hour minimum): $94.00.

Mechanical re-inspection per hour: $47.00.

Mechanical after hours (two-hour minimum): v94.00.

Electrical re-inspection per hour: $47.00.

Electrical after hours (two-hour minimum): $94.00.

Inspections in which no fee is specifically indicated (min. charge one-half-hour): $47.00.

For use of outside consultants for plan checking and inspections or both: Actual cost.

(Ord. No. 1097, § I, 10-13-92; Ord. No. 1645, § I, 8-31-04; Ord. No. 1877, § 2, 5-25-10)

Cross reference–Registration required, § 14-2(1).

Sec. 30-6 Moving buildings

Permit: $50.00.

(Code 1974, § 11/2-4.20(b))

Cross reference–Permit for moving buildings required, § 14-46.

Sec. 30-7 Temporary structure permit

Permit: $100.00.

(Ord. No. 1692, § III, 5-31-05)

Cross reference–Permit for temporary structure required per subsection 84-84(7).

Sec. 30-8 Outdoor storage, temporary residential permit

Permit: $15.00.

(Fee will not be assessed if roll-off container was received from solid waste provider and rental charges were subject to gross receipts franchise fee.)

(Ord. No. 1708, § III, 9-27-05)

Cross reference–Permit for temporary structure required per subsection 84-337(b)(2).

Secs. 30-9–30-10 Reserved

Editor's note–Section 1 of Ord. No. 1506, adopted Nov. 13, 2001, repealed in its entirety § 30-10, electrical permits, etc. Said section pertained to electrical fees, and derived from Code 1974, § 11/2-4.114. Ord. No. 1645, § II, adopted Aug. 31, 2004, repealed §§ 30-7-30-9 in their entirety. Former §§ 30-7-30-9 pertained to electrical contractor's license, master electrician's license, and apprentice electrician's license, and derived from Code 1974, § 11/2-4.97(d), § 11/2-4.98(d) and § 11/2-4.99, respectively.

Sec. 30-11 Fences, administration

Fence permit fee schedule is based on the cost of construction. See section 30-13(d).

Fence ordinance variance request: $75.00.

(Code 1974, § 11/2-4.135(c); Ord. No. 1645, § III, 8-31-04)

Cross reference–Fence and other obstructions permit required, § 14-306; fee for permit, § 14-308.

Sec. 30-12 Satellite television reception dishes

Permit fee schedule for installation of satellite television reception dishes is based on the cost of construction as stated in section 30-13(a), (b).

(Code 1974, § 11/2-4.150(b))

Cross reference–Permit required for satellite television reception dishes, § 84-85(s).

Sec. 30-13 Building fees

(a) Residential single-family, two-family, townhome family construction valuation is based on $97.00 per square foot.

Residential (new construction [combination], remodel, and miscellaneous) permit fee:

Total valuation	Fee
$1.00 to $500.00	$45.00
$501.00 to $2,000.00	$45.00 for the first $500.00 plus $3.00 for each additional $100.00 or fraction thereof.
$2,001.00 to $25,000.00	$90.00 for the first $2,000.00 plus $15.00 for each additional $1,000.00 or fraction thereof.
$25,001.00 to $50,000.00	$435.00 for the first $25,000.00 plus $10.00 for each additional $1,000.00 or fraction thereof.
$50,001.00 to $100,000.00	$685.00 for the first $50,000.00 plus $7.00 for each additional $1,000.00 or fraction thereof.
$100,001.00 to $500,000.00	$1,035.00 for the first $100,000.00 plus $3.00 for each additional $1,000.00 or fraction thereof.
$500,001.00 to $1,000,000.00	$2,235.00 for the first $500,000.00 plus $2.00 for each additional $1,000.00 or fraction thereof.
$1,000,001.00 and up	$3,235.00 for the first $1,000,000.00 plus $1.50 for each additiona $1,000.00 or fraction thereof.

(b) Commercial and multifamily residential construction valuations are based on the value of the work.

Commercial and multifamily residential (new construction [combination], remodel, and miscellaneous) permit fee:

Total valuation	**Fee**
$1.00 to $500.00	$50.00
$501.00 to $2,000.00	$50.00 for the first $500.00 plus $4.50 for each additional $100.00 or fraction thereof.
$2,001.00 to $25,000.00	$110.00 for the first $2,000.00 plus $18.00 for each additional $1,000.00 or fraction thereof.
$25,001.00 to $50,000.00	$520.00 for the first $25,000.00 plus $14.00 for each additional $1,000.00 or fraction thereof.
$50,001.00 to $100,000.00	$900.00 for the first $50,000.00 plus $10.00 for each additional $1,000.00 or fraction thereof.
$100,001.00 to $500,000.00	$1,500.00 for the first $100,000.00 plus $8.50 for each additional $1,000.00 or fraction thereof.
$500,001.00 to $1,000,000.00	$4,900.00 for the first $500,000.00 plus $7.00 for each additional $1,000.00 or fraction thereof.
$1,000,001.00 and up	$8,400.00 for the first $1,000,000.00 plus $6.00 for each additiona $1,000.00 or fraction thereof.

Note: fees for re-roofing and the installation of water heaters are by separate flat fee as reflected in subsections (e) and (h).

(c) Plan review fees for all commercial projects shall be 65 percent of the computed building permit fee. A nonrefundable plan review fee shall be assessed to all commercial and multifamily building permit applications at the time of plan submittal. A building permit application is not considered received until the plan review fee has been paid.

(d) Temporary utility service: $35.00.

(e) Commercial re-roof permit: Fee based on valuation of work as per subsection (b).

(f) Landscape irrigation permit and plan review fee:

Landscape irrigation permit fees for the single-family/two-family/townhome family residential installation of landscape irrigation systems will be based on the residential permit fees within subsection (a). All valuation of work for single-family/two-family/townhome family residential landscape irrigation will be calculated at $1.00 per square foot of landscape to be irrigated.

Commercial and multifamily residential development landscape irrigation permits will be based on commercial and multifamily residential permit fees within subsection (b).

Landscape irrigation installation valuations for commercial and multifamily developments will be provided by cost estimates from the contracting installer.

An irrigation plan review fee of $100.00 will apply to all irrigation plans (residential, multifamily residential, and commercial) submitted in support of a landscape irrigation permit application.

(g) Certificate of occupancy: $50.00.

(h) Water heater replacement:

Single-family/multifamily residential: $60.00 per water heater unit.

Commercial: Based on valuation of work as per subsection (b).

(i) Fence permit fee:

Fence permit fees for the single-family/two-family/townhome family residential installation of fencing will be based on the residential permit fees within subsection (a). All valuation of work for single-family/two-family/townhome family residential fencing will be calculated at the following rates:

Valuation rates for residential fencing installation

Type of fencing	**Valuation rate**
Wood/vinyl/chainlink	$7.50 per linear foot
Ornamental metal (wrought iron, aluminum - may include masonry columns)	$24.00 per linear foot
Full masonry	$80.00 per linear foot

Commercial and multifamily residential development fence permits will be based on commercial and multifamily residential permit fees within subsection (b). Fence installation valuations for commercial and multifamily developments will be provided by cost estimates from the contracting installer.

(j) Other methods for determining the project valuations for unique or unusual projects may be approved by the building official.

(k) Fee refunds:

Fees collected in accordance with this chapter may be refunded under the following conditions when requested in writing by the person who paid the fee within 180 days of the collection of the fee.

(1) Fee collected in error. Any fee in this chapter that was collected in error shall be refunded in full.

(2) Permit fees. When a permit is withdrawn or canceled by the applicant before

any work has begun as authorized by that permit then 80 percent of the permit fee shall be refunded. If any work has begun in accordance with the permit, then no refund shall be granted.

(Ord. No. 1506, § 2, 11-13-01; Ord. No. 1645, § IV, 8-31-04; Ord. No. 1837, §§ 3, 4, 12-9-08; Ord. No. 1877, § 3, 5-25-10)

Editor's note–Section 2 of Ord. No. 1506, adopted Nov. 13, 2001, amended in its entirety § 30-13, schedule of building fees, and enacted a new § 30-13 as set out herein. Said former section pertained to similar subject matter and derived from Code 1974, § 11/2-4.1000.

Sec. 30-14 Cable TV franchise

The schedule of cable television franchise fees is as follows:

Annual franchise: 5% of gross revenues.

(Code 1974, § 11/2-41/2.30; Ord. No. 1073, § III, 2-11-92)

Sec. 30-15 Fire prevention code

(a) Operational permits. (Operational permits are valid for one year unless specified otherwise herein or as allowed by the 2009 IFC.

(1) Amusement buildings: $150.00.

(2) Explosives:

a. Retail sales (gun shops, etc.): $50.00.

b. Commercial storage: $150.00.

c. Other uses (gas perforating, construction use, etc.): $150.00.

(15-day permit unless specified otherwise on the permit)

(3) Flammable/combustible liquid:

a. Removal of fuel from tanks: $50.00.

b. Tank removal from service: $100.00 per tank.

c. Change of contents–Tank: $50.00 per tank.

d. Manufacturing and processing: $100.00.

(4) Gates crossing fire lanes: $40.00 per site.

(5) Hazardous materials: $75.00 per site.

(Includes aerosols, battery systems, compressed gases, cryogenic fluids, flammable and combustible storage/handling/use and refrigeration permits as defined by the IFC if within the scope of those permits)

a. Storage tanks: $150.00 per site.

(6) Hot work operations: $75.00.

(7) Liquid or gas fueled vehicles in assembly building: $50.00.

(8) LP gas: $40.00.

(9) Mobile fuel dispensing operations: $100.00.

(10) Open burning–trench (TCEQ air curtain): $500.00.

(11) Open burning–Cooking ceremonial: no charge.

(12) Pyrotechnic special effects (fireworks-aerial): $400.00.

(13) Pyrotechnic special effects (theatrical) per time period specified on permit: $75.00.

(14) Speed bumps in fire access road (fire lane): $40.00 per site.

(b) Construction permits. *All construction permits, unless otherwise specified herein, are charged a fee based on the cost of the work to be performed. The fee table used is the same table used for valuing miscellaneous permits as specified in subsection 30-13(b) of this chapter.

(1) Aboveground and underground storage tanks*

a. Generator belly tanks that are manufactured as part of the generator: $150.0.

(2) Battery systems*

(3) Chemical fire extinguishing system*

(4) Compressed gas systems*

(5) Cryogenic fluids*

(6) Egress control devices*

(7) Fire alarm and detection system*

(8) Fire lane repair: no charge.

(9) Fire sprinklers/standpipes/fire pumps and related equipment*

(10) Flammable or combustible liquid operations*

(11) Gate installation (powered gates crossing fire lane or private street)*

(12) Hazardous materials*

(13) Industrial ovens*

(14) LPG installations/modifications: $75.00.

(15) Mechanical exhaust hoods (vent A hoods)*

(16) Private fire lines*

(17) Smoke control*

(18) Speed bumps (installed in fire lanes)*

(19) Spray booth/spray room/dip tank installation*

(20) Storage tank misc. and related equipment*

(21) Storage tank removal: $100.00 per tank.

(22) Temporary membrane structures, tents and canopies: $50.00.

(30-day permit)

(c) Miscellaneous fees.

(1) After hours inspections: $75.00 per person per hour with a four hour minimum

(2) Expired permit fee: $50.00.

(3) No permit fee: An amount double the permit fee may be assessed for work that is conducted without the proper permit having first being obtained.

(4) Reinspection fee: $75.00 per inspection after three inspections/reinspections when assessed by the fire marshal

(5) Standby fee: $75.00 per person per hour (four hour minimum).

(6) Plan review fee: 65 percent of the construction permit fee.

(Code 1974, § 11/2-6.1(e)(4); Ord. No. 1097, § III, 10-13-92; Ord. No. 1179, § II, 6-27-95; Ord. No. 1208, § I, 6-25-96; Ord. No. 1478, § 1, 6-26-01; Ord. No. 1699, § I, 8-30-05; Ord. No. 1988, § 1, 2-26-13)

Cross reference–Fire prevention code, § 34-101.

Sec. 30-16 Solid waste and recycling collection

(a) Solid waste.

(1) Monthly rates (in dollars). Effective March 1, 2013 through February 28, 2014:

Residential curbside: $8.23/month .

Backdoor service: $11.23/month.

Commercial Front-Load Rates
Pickups Per Week

Size	1X	2X	3X	4X	5X	6X	Extra	Delivery
2 YD	$54.15	$101.89	$135.68	$197.99	$239.76	$277.51	$18.60	$38.67
3 YD	$76.82	$134.35	$177.47	$236.60	$291.73	$333.80	$27.95	$38.67
4 YD	$92.81	$162.54	$224.29	$292.59	$353.23	$403.42	$37.25	$38.67
6 YD	$117.56	$222.74	$315.54	$411.45	$508.90	$578.29	$52.58	$38.67
8 YD	$136.12	$273.79	$382.06	$484.14	$607.89	$695.25	$60.33	$38.67

Commercial Roll Off Rates

Size	Type	Delivery	Rental per Day	Total per Load	Deposit per Container
20 YD	OPEN	$92.81	$6.96	$356.08	$322.32
30 YD	OPEN	$92.81	$6.96	$425.38	$322.32
40 YD	OPEN	$92.81	$6.96	$487.25	$322.32
28 YD	COMP	NEGO	NEGO	$529.18	NEGO
30 YD	COMP	NEGO	NEGO	$553.24	NEGO
35 YD	COMP	NEGO	NEGO	$613.42	NEGO
40 YD	COMP	NEGO	NEGO	$673.58	NEGO
42 YD	COMP	NEGO	NEGO	$697.58	NEGO

Commercial hand load two times per week: $20.88 per month (limit four bags).

Casters: $15.47/month.

Locks: $7.75/month.

Special Pick Up Rates

1–5 yds	6–10 yds	10–15 yds	>15 yds
$35.32	$88.31	$158.95	Roll off rates will apply

(2) Monthly rates (in dollars). Effective March 1, 2014 through February 28, 2015:

Residential curbside: $8.48/month.

Backdoor service: $11.48/month.

Commercial Front-Load Rates
Pickups Per Week

Size	1X	2X	3X	4X	5X	6X	Extra	Delivery
2 YD	$55.77	$104.95	$139.75	$203.93	$246.96	$285.84	$19.16	$39.83
3 YD	$79.13	$138.38	$182.79	$243.69	$300.49	$343.82	$28.79	$39.83
4 YD	$95.60	$167.41	$231.02	$301.37	$363.82	$415.52	$38.37	$39.83
6 YD	$121.09	$229.42	$325.01	$423.79	$524.17	$595.63	$54.16	$39.83
8 YD	$140.20	$282.00	$393.52	$498.67	$626.12	$716.10	$62.14	$39.83

Commercial Roll Off Rates

Size	Type	Delivery	Rental per Day	Total per Load	Deposit per Container
20 YD	OPEN	$95.60	$7.17	$366.76	$331.99
30 YD	OPEN	$95.60	$7.17	$438.14	$331.99
40 YD	OPEN	$95.60	$7.17	$501.87	$331.99
28 YD	COMP	NEGO	NEGO	$545.06	NEGO
30 YD	COMP	NEGO	NEGO	$569.84	NEGO
35 YD	COMP	NEGO	NEGO	$631.82	NEGO
40 YD	COMP	NEGO	NEGO	$693.79	NEGO
42 YD	COMP	NEGO	NEGO	$718.58	NEGO

Commercial hand load two times per week: $21.51 per month (limit four bags).

Casters: $15.93/month.

Locks: $7.98/month.

Special Pick Up Rates

1–5 yds	6–10 yds	10–15 yds	>15 yds
$36.38	$90.96	$163.72	Roll off rates will apply

(3) Monthly Rates (in dollars). Effective March 1, 2015 through February 28, 2016:

Residential curbside: $8.73/month

Backdoor service: $11.73/month

Commercial Front-Load Rates
Pickups Per Week

Size	1X	2X	3X	4X	5X	6X	Extra	Delivery
2 YD	$57.45	$108.10	$143.95	$210.05	$254.36	$294.41	$19.74	$41.03
3 YD	$81.50	$142.53	$188.28	$251.00	$309.50	$354.13	$29.65	$41.03
4 YD	$98.47	$172.44	$237.95	$310.41	$374.74	$427.99	$39.52	$41.03
6 YD	$124.72	$236.30	$334.76	$436.51	$539.89	$613.50	$55.78	$41.03
8 YD	$144.41	$290.46	$405.33	$513.63	$644.91	$737.59	$64.00	$41.03

Commercial Roll Off Rates

Size	Type	Delivery	Rental per Day	Total per Load	Deposit per Container
20 YD	OPEN	$98.47	$7.38	$377.76	$341.95
30 YD	OPEN	$98.47	$7.38	$451.28	$341.95
40 YD	OPEN	$98.47	$7.38	$516.92	$341.95
28 YD	COMP	NEGO	NEGO	$561.41	NEGO
30 YD	COMP	NEGO	NEGO	$586.93	$NEGO
35 YD	COMP	NEGO	NEGO	$650.78	NEGO
40 YD	COMP	NEGO	NEGO	$714.60	NEGO
42 YD	COMP	NEGO	NEGO	$740.13	NEGO

Commercial hand load two times per week: $22.15 per month (limit four bags).

Casters: $16.41/month.

Locks: $8.22/month.

Special Pick Up Rates

1–5 yds	6–10 yds	10–15 yds	>15 yds
$37.47	$93.69	$168.63	Roll off rates will apply

(4) Monthly Rates (in dollars). Effective March 1, 2016 through February 28, 2017:

Residential curbside: $8.99/month.

Backdoor service: $11.99/month.

Commercial Front-Load Rates
Pickups Per Week

Size	1X	2X	3X	4X	5X	6X	Extra	Delivery
2 YD	$59.17	$111.34	$148.26	$216.35	$262.00	$303.24	$20.33	$42.26
3 YD	$83.95	$146.81	$193.92	$258.53	$318.78	$364.75	$30.54	$42.26
4 YD	$101.42	$177.61	$245.09	$319.72	$385.98	$440.83	$40.71	$42.26
6 YD	$128.46	$243.39	$344.80	$449.60	$556.09	$631.91	$57.46	$42.26
8 YD	$148.74	$299.18	$417.49	$529.03	$664.25	$759.72	$65.92	$42.26

Commercial Roll Off Rates

Size	Type	Delivery	Rental per Day	Total per Load	Deposit per Container
20 YD	OPEN	$101.42	$7.60	$389.10	$352.21
30 YD	OPEN	$101.42	$7.60	$464.82	$352.21
40 YD	OPEN	$101.42	$7.60	$532.43	$352.21
28 YD	COMP	NEGO	NEGO	$578.25	NEGO

30 YD	COMP	NEGO	NEGO	$604.54	NEGO
35 YD	COMP	NEGO	NEGO	$670.30	NEGO
40 YD	COMP	NEGO	NEGO	$736.04	NEGO
42 YD	COMP	NEGO	NEGO	$762.34	NEGO

Commercial hand load two times per week: $22.82 per month (limit four bags).

Casters: $16.91/month.

Locks: $8.46/month.

Special Pick Up Rates

1–5 yds	6–10 yds	10–15 yds	>15 yds
$38.59	$96.50	$173.69	Roll off rates will apply

(5) Monthly Rates (in dollars). Effective March 1, 2017 through February 28, 2018:

Residential curbside: $9.26/mont.h

Backdoor service: $12.26/month.

Commercial Front-Load Rates
Pickups Per Week

Size	1X	2X	3X	4X	5X	6X	Extra	Delivery
2 YD	$60.94	$114.68	$152.71	$222.84	$269.86	$312.34	$20.94	$43.52
3 YD	$86.47	$151.21	$199.74	$266.29	$328.35	$375.70	$31.46	$43.52
4 YD	$104.46	$182.94	$252.44	$329.32	$397.56	$454.05	$41.93	$43.52
6 YD	$132.32	$250.69	$355.14	$463.09	$572.77	$650.87	$59.18	$43.52
8 YD	$153.20	$308.15	$430.01	$544.91	$684.18	$782.51	$67.90	$43.52

Commercial Roll Off Rates

Size	Type	Delivery	Rental per Day	Total per Load	Deposit per Container
20 YD	OPEN	$104.46	$7.83	$400.77	$362.78
30 YD	OPEN	$104.46	$7.83	$478.77	$362.78
40 YD	OPEN	$104.46	$7.83	$548.40	$362.78
28 YD	COMP	NEGO	NEGO	$595.60	NEGO
30 YD	COMP	NEGO	NEGO	$622.68	NEGO
35 YD	COMP	NEGO	NEGO	$690.41	NEGO
40 YD	COMP	NEGO	NEGO	$758.12	NEGO
42 YD	COMP	NEGO	NEGO	$785.21	NEGO

Commercial hand load two times per week: $23.50 per month (limit four bags).

Casters: $17.41/month.

Locks: $8.72/month.

Special Pick Up Rates

1–5 yds	6–10 yds	10–15 yds	>15 yds
$39.75	$99.40	$178.90	Roll off rates will apply

(b) Recycling.

(1) Monthly Rates (in dollars).

Base service is blue bag service.

Bin or cart service rate is in addition to base service.

Senior base service is blue bag service.

Senior bin or cart service rate is in addition to senior base service.

Effective Date	Base Blue Bag	Bin (Base +)	Cart (Base +)	Senior Base Blue Bag	Senior Bin (Base +)	Senior Cart (Base +)	Apartment Unit
3/1/2013	$1.15	+$1.30	+$1.30	$0.58	+$1.30	+$1.30	$0.97
3/1/2014	$1.19	+$1.34	+$1.34	$0.59	+$1.34	+$1.34	$0.98
3/1/2015	$1.22	+$1.38	+$1.38	$0.61	+$1.38	+$1.38	$0.99
3/1/2016	$1.26	+$1.42	+$1.42	$0.63	+$1.42	+$1.42	$1.00
3/1/2017	$1.30	+$1.46	+$1.46	$0.65	+$1.46	+$1.46	$1.01

(Code 1974, § 11/2-7.14; Ord. No. 1102, § I, 12-8-92; Ord. No. 1164, § I, 1-24-95; Ord. No. 1169, § I, 2-28-95; Ord. No. 1222, § 1, 11-26-96; Ord. No. 1222, § 1, 11-26-96; Ord. No. 1289, § 1, 11-11-97; Ord. No. 1290, § 1, 11-11-97; Ord. No. 1466, § 1, 3-27-01; Ord. No. 1478, § 2, 6-26-01; Ord. No. 1492, § 1, 8-14-01; Ord. No. 1579, § 1, 2-11-03; Ord. No. 1614, § 1, 12-9-03; Ord. No. 1719, § 1, 2-28-06; Ord. No. 1773, § 1, 3-13-07; Ord. No. 1786, Exh. A, 11-13-07; Ord. No. 1790, Exh. A, 11-13-07; Ord. No. 1972, § 2, 9-25-12)

Cross reference–Solid waste collection charge required, § 66-7.

Sec. 30-17 Grass and weeds, collection of abatement cost

Administration charge: $150.00.

Advertising: Actual cost.

Mowing/cleanup: Actual cost.

Mail/legal notice: Actual cost.

(Code 1974, § 11/2-7.29)

Cross reference–Costs for abatement of nuisances including administrative fee to be paid by violator, § 46-29.

Sec. 30-18 Abandoned, derelict, lost property

Taking and impounding any personal property: $3.00.

Preparing advertisements of sale of each article: $0.50.

Selling each article: $1.00.

Posting notices of sale relating to any one article: $0.50.

(Code 1974, § 11/2-7.67)

Cross reference–Requirement to pay certain fees for abandoned, derelict, lost property, § 46-101.

Sec. 30-19 Food and food service establishments

Annual permit fee for food service establishment permit, license or certificate: $250.00.

Food handler certificate: $10.00.

Replacement for lost food handler certificate: $5.00.

Annual mobile food service establishment permit, per vehicle: $200.00.

Temporary food service establishment permit, per event location/booth (3 days, 2 times per year)

For profit establishments: $100.00.

For nonprofit establishments: $50.00.

Seasonal food establishment (6 weekends, 2 times per year): $200.00.

Late payment fee:

31 to 60 days after due date: 10 percent of permit fee.

61 to 90 days after due date: 30 percent of permit fee.

Over 90 days past due date: Double the permit fee.

(Code 1974, § 11/2-8.86; Ord. No. 1168, § II, 1-10-95; Ord. No. 1331, § I, 6-23-98; Ord. No. 1525, § I, 3-26-02; Ord. No. 1572, § 2, 1-14-03; Ord. No. 1877, § 4, 5-25-10)

Cross reference–Food and food service establishment permit required, § 42-32.

Sec. 30-20 Retail food stores

Supermarket/grocery store (food stores over 5,000 square feet gfa) for each department: $250.00.

Convenience stores (food stores under 5,000 square feet gfa): $250.00.

with deli: $350.00 .

(Code 1974, § 11/2-8.101; Ord. No. 1525, § II, 3-26-02; Ord. No. 1572, § 3, 1-14-03; Ord. No. 1877, § 5, 5-25-10)

Cross reference–Retail food store permit required, § 42-57.

Sec. 30-21 Coin-operated machine tax

Annual tax per machine (one-fourth of state tax): $15.00.

(Code 1974, § 11/2-10.7)

Cross reference–Coin-operated machine occupation tax levy, § 78-96.

Sec. 30-22 Occasional and garage sales

Garage sale permit: $5.00.

(Code 1974, § 11/2-10.52)

Cross reference–Permit required for occasional or garage sales, § 62-28.

Sec. 30-23 Solicitors

Annual permit fee for person, firm, corporation or organization and a single agent, employee or volunteer: $35.00;

Annual permit fee for each additional agent, employee or volunteer: $10.00;

Annual permit fee for person, corporation, firm or organization that sponsors or employs one or more minors as solicitors: $50.00.

(Code 1974, § 11/2-10.66; Ord. No. 1949, § 2, 3-13-12)

Cross reference–Registration required for solicitation; fees, § 18-51.

Sec. 30-24 Day care, public pools

Public swimming pools and spas, annual permit fee: $250.00.

Day care, annual permit fee: $150.00.

(Ord. No. 1525, § III, 3-26-02; Ord. No. 1572, § 4, 1-14-03; Ord. No. 1877, § 6, 5-25-10)

Sec. 30-25 Sexually oriented business license

Application fee: $500.00.

Annual renewal fee: 500.00.

Reinstatement fee: 200.00.

(Ord. No. 1133, § 5, 3-22-94)

Editor's note–Ord. No. 1133, § 5, adopted Mar. 22, 1994, repealed former § 30-25, which pertained to massage parlors and massage establishments fees, and added a new § 30-25, to read as herein set out.

Sec. 30-26 Reserved

Editor's note–Ord. No. 1988, § 2, adopted Feb. 26, 2013, repealed § 30-26, which pertained to swimming pools and derived from the Code of 1974, § 11/2-12.10; Ord. No. 1699, § II, 8-30-05; Ord. No. 1740, § 1, 6-27-06; Ord. No. 1877, § 7, 5-25-10.

Sec. 30-27 Reserved

Editor's note–Ord. No. 1988, § 3, adopted Feb. 26, 2013, repealed § 30-27, which pertained to recreation areas or facilities and derived from the Code of 1974, § 11/2-12.14; Ord. No. 1069, § I, 11-26-91; Ord. No. 1208, § II, 6-25-96; Ord. No. 1221, § 1, 10-22-96; Ord. No. 1237, §§ 1-5, 8-12-97; Ord. No. 1346, § 1, 12-8-98; Ord. No. 1354, § 1, 4-13-99; Ord. No. 1421, § 1, 4-11-00; Ord. No. 1460, § 1, 2-27-01; Ord. No. 1464, § 1, 3-14-01; Ord. No. 1569, § 1, 2, 12-10-02; Ord. No. 1572, § 5, 1-14-03; Ord. No. 1699, § III, 8-30-05; Ord. No. 1740, § 2, 6-27-06; Ord. No. 1877, §§ 8, 9, 5-25-10; Ord. No. 1881, § 1, 8-31-10.

Sec. 30-28 Library

(1) Library materials and facilities. The following fees are established for use or misuse of library materials and facilities:

Type of Material	Fine per Day per Item
Books, cassettes, CDs, videocassettes, kits, and DVD's	$0.25
Interlibrary loan	$0.50

Maximum overdue fine to accrue: 10.00 or the price of the item (whichever is lower) .

Duplicate library card: $2.00.

Items lost or damaged: Replacement cost plus $5.00 per item reprocessing fee.

Items not listed in replacement data bases:

Children’s book, CD, video, or DVD: $15.00.

Adult hard cover book: $25.00.

Trade paperback book: $10.00.

Mass market paperback: $5.00.

Missing bar code: $1.00.

Cost of sending overdue notice by certified mail: Actual cost of postage.

Fax:

Receive, per page: $0.25.

Send, per page: $1.00.

Copies (from copier, microfiche reader/printer, and personal computers), per copy: $0.10.

Collection agency charge for overdue and non-returned materials: $8.95.

Color copies: $0.25 each.

Interlibrary loan: $2.00 each item, non-Euless residents.

(2) Library meeting room:

(a) Library Meeting Room A or Meeting Room B charge:

(1) Base Room Charge - per hour (three-hour minimum): $35.00.

(2) Each additional hour: $35.00.

(3) Food Fee - per event: $25.00.

(4) Audio Visual Rental, per hour (three-hour minimum): $15.00.

(5) Attendant Fee, per hour (after hours only) (three-hour minimum): $15.00.

(b) Library Meeting Rooms A and B charge:

1. Base room charge - per hour (three-hour minimum): $60.00.

2. Each additional hour: $60.00.

3. Food Fee - per event: $25.00.

4. Audio Visual Rental - per hour (three-hour minimum): $15.00.

5. Attendant Fee - per hour (after hours only) (three-hour minimum): $15.00.

(c) Payment policy. A signed contract and payment in full of the room charge is required to secure the room reservation. Refunds on room charges are made when the cancellation is received in writing two weeks prior to the event. If the reservation is cancelled less than two weeks prior to the event refunds will be considered on an individual basis.

(d) Damage deposits.

No food or drinks served: $100.00.

Food or drinks served: $500.00.

This deposit will serve as security for any additional cleanup of the facility and will be applied toward any damage to the facility. The deposit is to be paid by separate check with signed contract. The damage deposit will be refunded to the patron within ten business days after the date of the reservation and after a thorough inspection of the meeting facility. The damage deposit will be refunded if the reservation is cancelled two weeks prior to the event. If the reservation is cancelled less than two weeks prior to the event the damage deposit refund will be considered on an individual basis.

(e) Security officer. $25.00 per hour (3-hour minimum). Any event with over 100 persons in attendance will be reviewed to see if a security officer should be present. Any event with over 150 persons in attendance will be required to employ an officer. The renter will pay the officer at the end of the evening. This fee is in addition to attendant fee.

(f) Catering. An approved caterers' list will be available to those wishing to have an event catered. Approval of a caterer involves providing a certificate of insurance with the city named as an additional insured on said certificate, a copy of certificate of health, and a signed catering agreement with the city is due two weeks prior of planned event.

(Code 1974, § 11/2-12.34; Res. No. 91-772, 11-12-91; Ord. No. 1105, § II, 2-9-93; Ord. No. 1218, § 1, 9-24-96; Ord. No. 1291, § 1, 11-25-97; Ord. No. 1302, 1-27-98; Ord. No. 1346, § 2, 12-8-98; Ord. No. 1369, 6-22-99; Ord. No. 1394, § 1, 11-23-99; Ord. No. 1514, § 1, 11-27-01; Ord. No. 1569, § 1, 2, 12-10-02; Ord. No. 1572, § 6, 1-14-03; Ord. No. 1614, § 2, 12-9-03; Ord. No. 1699, § IV, 8-30-05; Ord. No. 1740, § 2, 6-27-06; Ord. No. 1877, § 10, 5-25-10)

Cross reference–Fees and expense charges for use of library facilities and materials, § 54-139.

Sec. 30-29 Streets and sidewalks, barricades

Permit: $15.00.

(Code 1974, § 11/2-13.24)

Cross reference–Permit fee required for barricades for streets and sidewalks, § 70-64; vehicles for hire, ch. 90.

Sec. 30-30 Emergency medical service rates

Ambulance fees for the use of city ambulances will be set in accordance with the formula set forth by the third party billing agency. The third party agency will use reasonable best efforts to determine and use standard pricing for the services. Charges and rates for services will be based on prevailing charges and provider's demographic service area.

(Code 1974, § 11/2-15.29; Ord. No. 1676, § 1, 2-8-05)

Cross reference–Vehicles for hire, ch. 90.

Sec. 30-31 Vehicles for hire–Taxicabs and other public vehicles

Annual certificate of convenience and necessity: $500.00.

(Code 1974, § 11/2-15.29)

Cross reference–Vehicles for hire, ch. 90.

Sec. 30-32 Same–Wreckers and tow trucks

Application, per wrecker: $25.00.

Annual wrecker permit (expires December 31): $25.00.

Permits and fees apply to companies within city limits and nonconsent pulls only.

(Code 1974, § 11/2-15.45)

Cross reference–Vehicles for hire, ch. 90.

Sec. 30-33 Water and sewer fees and impact fees

(a) Water: Fees for water or sprinkler meters and meter boxes shall be an amount equal to actual cost of materials and labor plus 15 percent. This cost is based on cost of SR-T.R.C. meters as of June 12, 1986, and any increase in cost from time to time shall increase by a like amount effective concurrent with such increased charge to the city.

(b) Tap fees: Applicants are encouraged to have taps to water and sewer lines made by a private contractor to specifications established by the city engineer. If taps are made by city personnel, the applicant shall pay a fee therefor equal to the cost of labor and materials plus 15 percent.

(c) Street cuts: If a street cannot be bored, the applicant must see the city engineer for an alternative method, with a permit fee required as outlined in section 30-29.

(d) Water and sewer impact fees:

Water and sewer impact fees for developments for which the final plat was recorded after June 13, 1990, and before May 25, 1993:

Meter Size (inches)	Water	Sewer	Total
.75" or smaller	$392.00	$608.00	$1,000.00
1"	$655.00	$1,015.00	$1,670.00
1.5"	$1,305.00	$2,025.00	$3,330.00
2"	$2,089.00	$3,241.00	$5,330.00
3"	$3,920.00	$6,080.00	$10,000.00
4"	$6,535.00	$10,135.00	$16,670.00
6"	$13,065.00	$20,265.00	$33,330.00
8"	$23,520.00	$36,480.00	$60,000.00
10"	$37,895.00	$58,775.00	$96,670.00

Water and sewer impact fees for developments for which the final plat was recorded on or after May 25, 1993, and on or before April 27, 1999:

Meter Size (inches)	Water	Sewer	Total
.75" or smaller	$592.00	$746.00	$1,338.00
1"	$989.00	$1,246.00	$2,235.00
1.5"	$1,971.00	$2,484.00	$4,455.00
2"	$3,155.00	$3,976.00	$7,131.00
3"	$5,920.00	$7,460.00	$13,380.00
4"	$9,869.00	$12,436.00	$22,305.00
6"	$19,731.00	$24,864.00	$44,595.00
8"	$35,520.00	$44,760.00	$80,280.00
10"	$57,229.00	$72,116.00	$129,345.00

Water and sewer impact fees for developments for which the final plat is recorded after April 27, 1999; and on or before April 9, 2013:

Meter Size (inches)	Water	Sewer	Total
5/8" or 3/4"	$1336.97	$92.25	$1,429.22
1"	$3,342.42	$191.42	$3,533.84
1.5"	$6,684.83	$382.84	$7,067.67
2"	$10,695.72	$612.54	$11,308.26
3"	$32,087.16	$1,837.62	$33,924.78
4"	$56,152.53	$3,215.84	$59,368.37
6"	$123,000.78	$7,044.21	$130,044.99
8"	$213,914.40	$12,250.80	$226,165.20
10"	$334,241.25	$19,141.88	$353,383.13

Water and sewer impact fees for developments for which the final plat is recorded after April 9, 2013:

Meter Size (inches)	Water	Sewer	Total
5/8" or 3/4"	$1477.90	$524.70	$2,002.60
1"	$3,694.75	$1,311.75	$5,006.50
1.5"	$7,389.50	$2,623.50	$10,013.00
2"	$11,823.20	$4,197.60	$16,020.80
3"	$35,469.60	$12,592.80	$48,062.40
4"	$62,071.80	$22,037.40	$84,109.20
6"	$135,966.80	$48,272.40	$184,239.20
8"	$236,464.00	$83,952.00	$320,416.00

(Code 1974, § 11/2-16.21; Ord. No. 1111, § III, 5-25-93; Ord. No. 1346, § 3, 12-8-98; Ord. No. 1348, § 1, 1-26-99; Ord. No. 1364, § III, 4-27-99; Ord. No. 1992, § 3, 4-9-13)

Cross reference–Water and sewer connection and impact fees required, § 86-47; impact fees to be charged, § 86-67.

Sec. 30-34 Water deposits

If the deposit is paid or the request for transfer of service is received before noon, service can be connected that same day. If the deposit is paid or transfer of service received after noon, service can be connected the following working day. No specific times can be designated other than four-hour increments (8:00 a.m. to 12:00 noon, 1:00 p.m.–5:00 p.m.). If the customer requires service be turned on immediately, a same day service fee will be charged. In addition to the water deposit, a service initiation fee will be charged to establish a new account.

Residential units: $60.00.

Commercial sprinkler: $450.00.

Shell buildings: $200.00.

Motels, per unit: $60.00.

Apartments, per unit: $60.00.

Office buildings, per suite: $60.00.

Fire hydrant meter deposit: $2,000.00.

Deposits for commercial customers shall not be less than $75.00 and shall be calculated to equal the multiple of $5.00 nearest the estimated average monthly billing for the particular type of customer involved. Calculation shall be based on water, sewer and garbage monthly billing.

If the amount of the surety deposit exceeds $5,000.00, the requirement for the security deposit may be met by providing a surety bond, which shall be in the amount of the deposit otherwise required. Such surety bonds shall be subject to the approval of the city attorney and shall be supported by powers of attorney as he may direct. In addition to any requirements of the city attorney, such surety company shall be licensed to do business in the State of Texas and shall be “T-listed.”

Miscellaneous charges:

Water source transfer fee: $275.00 (each occurrence).

Meter relocation: $200.00.

Meter box and lid (five-eighths-inch): $20.00.

Meter box and lid (two inches): $35.00.

After hours service call: $25.00.

Same day service fee: $15.00.

48-hour water service: $25.00.

Meter calibrations (inches):

5/8: $50.00.

1: $87.50.

1-1/2: $137.50.

2: $150.00.

3: $175.00.

4: $225.00.

Repair of curb stop: $50.00.

Meter box lid: $12.50.

Fire hydrant meter (cost): $795.00.

Inspection (water turned on for 24 hours for the purpose of a home inspection): $10.00.

Tampering with locked or plugged meters: $75.00 (plus misdemeanor charges will be filed for theft of service)

Service initiation fee: $15.00.

Transfer fee: $15.00.

Recheck of meter read: $10.00. All customers are allowed one recheck every six months at no charge; a charge will be assessed for all others unless the meter has been misread.

Emergency cut-off by city personnel (broken pipes or freeze damaged pipes): No charge.

Cut-off for plumbing repairs: No charge.

The curbstop at the meter belongs to the city; all customers should have a working cutoff close to their house.

Negligent damage to meter or any associated electronic device: Replacement cost.

Delinquent accounts:

If any month's charges are delinquent after 15 days, the water service of the user or customer will be subject to termination.

Delinquent commercial and multifamily utility accounts subject to delinquent turn off will be billed an additional security deposit not to exceed 30 percent of the average monthly billing or as deemed appropriate by the utility billing manager upon review of the utility account.

Failure to return fire hydrant meter for reading: $500.00.

Home collection: $20.00.

Service charge to deliver delinquent tag: $20.00.

Allow serviceman to collect check or money order at door on delinquent account. (No additional deposit, no reconnect fee.)

Reconnection of service after delinquent turnoff:

Additional deposit: $20.00.

Service charge: $20.00.

Administrative fee associated with placing liens against non-homestead property for unpaid utility bills: $50.00.

(Code 1974, § 11/2-16.22; Ord. No. 1058, § 1, 9-10-91; Ord. No. 1091, § 1, 9-8-92; Ord. No. 1121, § 1, 9-28-93; Ord. No. 1153, § 1, 9-27-94; Ord. No. 1179, § III, 6-27-95; Ord. No. 1237, § 6, 8-12-97; Ord. No. 1394, § 2, 11-23-99; Ord. No. 1478, § 3, 6-26-01; Ord. No. 1572, § 8, 1-14-03; Ord. No. 1614, § 3, 12-9-03; Ord. No. 1857, § 1, 8-25-09; Ord. No. 1988, § 4, 2-26-13)

Cross reference–Master deposit, § 30-35; delinquent accounts, § 86-31; deposit required, § 86-48.

Sec. 30-35 Water and wastewater service-monthly rates

The schedule of monthly rates and charges for water and wastewater services furnished or caused to be furnished by the city is as follows:

Water service–Meter charge. The monthly minimum charge shall be based on meter size as follows:

Meter Size (Inches)	Monthly Charge
5/8 – 3/4*	$8.95
1	$10.46
1-1/2	$14.66
2	$24.28
3	$49.39
4	$87.07
5	$137.30
6	$195.91

*All residential living units and multifamily living units shall be billed a monthly base charge equivalent to the monthly charge for a 5/8-inch meter.

Water service–Volume charge per 1,000 gallons. The monthly volume charge for water service is as follows:

(1) Residential:

0–2,000 gallons	$2.97 per 1,000/gallons
3,000–8,000 gallons	$3.90 per 1,000/gallons
9,000–15,000 gallons	$4.47 per 1,000/gallons
16,000–35,000 gallons	$5.00 per 1,000/gallons
Over 35,000 gallons	$5.60 per 1,000/gallons

(2) Commercial, industrial and multifamily:

Total consumption	$4.23 per 1,000/gallons

(3) Fire hydrant and gas well meters:

Total consumption	$9.49 per 1,000/gallons

Irrigation service–Volume charge per 1,000 gallons. The monthly volume charge for

water service is as follows:

(1) Residential, commercial, industrial and multifamily:

0–8,000 gallons	$4.23 per 1,000/gallons
9,000–15,000 gallons	$4.47 per 1,000/gallons
16,000–35,000 gallons	$5.00 per 1,000/gallons
Over 35,000 gallons	$5.60 per 1,000/gallons

(2) Supplemental irrigation:

Total consumption	$9.49 per 1,000/gallons

Reclaimed water service–Volume charge per 1,000 gallons. The monthly volume charge for water service is as follows:

(1) Non-boosted:

Total consumption	$1.55 per 1,000/gallons

(2) Boosted:

0–8,000 gallons	$3.85 per 1,000/gallons
9,000–15,000 gallons	$4.07 per 1,000/gallons
16,000–35,000 gallons	$4.55 per 1,000/gallons
Over 35,000 gallons	$5.10 per 1,000/gallons

(3) Construction and gas well meters:

Total consumption	$8.07 per 1,000/gallons

Water service–Other: Water service for municipally owned property and buildings that are part of or connected to form a parcel of at least a minimum of 50 acres shall be $1.55 per 1,000 gallons.

Wastewater service–Residential. The wastewater service charge for residential customers shall be based on 90 percent of metered water. Wastewater service charges on 90 percent metered water shall not exceed 12,000 gallons per billing period per living unit. The monthly minimum per living unit shall be as follows:

(1) Within corporate limits, $7.75, plus $3.33 per 1,000 gallons of 90 percent of metered water.

(2) Outside corporate limits, $12.25, plus $3.33 per 1,000 gallons of 90 percent of metered water.

Wastewater service–Commercial and industrial. Commercial and industrial wastewater charges shall be based on 100 percent of metered water. The monthly minimum shall be as follows:

(1) Within corporate limits, $7.75, plus $3.33 per 1,000 gallons of metered water.

(2) Outside corporate limits, $12.25, plus $3.33 per 1,000 gallons of metered water.

The following provisions apply to all commercial and industrial customers:

(1) Customers who show proof that a significant portion of metered water does not enter the wastewater system shall not be billed for that portion that does not enter the wastewater system.

(2) Monitored group class customers shall be billed according to section 86-51 of this code.

(3) Industrial cost recovery group customers shall be billed according to section 86-51 of this code plus the additional charges in section 86-52 as required.

Wastewater service–Other: Wastewater service for all club houses, convention facilities, and restaurants on municipally owned property of a minimum of 50 acres shall be billed at the current city rate of $7.75 plus $3.33 per 1,000 gallons of metered water.

The above rates are based upon total costs to the city to operate the system including, but not limited to, cost to purchase treated water from the Trinity River Authority of Texas, cost of wastewater treatment by the Trinity River Authority of Texas, and cost of distribution of water and collection of wastewater by the city. The minimum charge and/or volume charge may be adjusted by the city council from time to time.

Master deposit. Customers may place a master deposit with the city in the amount of twice the current residential deposit. This deposit will be held on file until the customer requests it be refunded. Customers must request service starts and disconnects in writing. All accounts will be charged the current service initiation fees. No master deposits are allowed on commercial accounts.

(Code 1974, § 11/2-16.23; Ord. No. 1058, § 2, 9-10-91; Ord. No. 1091, § 2, 8-9-92; Ord. No. 1121, § 2, 9-28-93; Ord. No. 1199, § 1, 1-9-96; Ord. No. 1394, § 3, 11-23-99; Ord. No. 1478, § 4, 6-26-01; Ord. No. 1579, § 2, 2-11-03; Ord. No. 1664, 10-26-04; Ord. No. 1714, § 1, 11-22-05; Ord. No. 1787, § 1, 9-11-07; Ord. No. 1830, § 1, 9-23-08; Ord. No. 1857, § 2, 8-25-09; Ord. No. 1877, § 11, 5-25-10; Ord. No. 1881, § 2, 8-31-10; Ord. No. 1923, § 1, 8-30-11; Ord. No. 1963, § 1, 8-28-12; Ord. No. 2003 , § 1, 8-27-13; Ord. No. 2036, § 1, 8-26-14)

Cross reference–Water and sewer charges, § 86-49.

Sec. 30-36 Private water well permit fee

Proposed well depth in feet	Fee

500 and less	$500.00
501–1,000	$1,000.00
1,000 and greater	$1,500.00

This fee would include all plan review and inspection labor.

Electrical permit fees will also apply. See section 30-10.

(Ord. No. 1478, § 5, 6-26-01)

Prior to the reenactment of § 30-36, pursuant to Ord. No. 1478, Ord. No. 1394, § 4, adopted Nov. 23, 1999, deleted former § 30-36 in its entirety, which pertained to reconnection of water and sewer service and derived from the 1974 Code, § 11/2-16.4; and Ord. No. 1237, § 7, adopted Aug. 12, 1997.

Sec. 30-37 Monitored group class

Customer monthly service charge	$7.75
Volume charge per 1,000 gallons BOD	$3.33
Strength charge, per pound of BOD	$0.06832
TSS per pound of suspended solids	$0.07284
Monitoring charge	100% of cost to city

(Code 1974, § 11/2-16.25; Ord. No. 1857, § 3, 8-25-09; Ord. No. 1881, § 38-31-10; Ord. No. 1923, § 2, 8-30-11; Ord. No. 1963, § 2, 8-28-12; Ord. No. 2003 , § 2, 8-27-13; Ord. No. 2036, § 2, 8-26-14)

Cross reference–Certain fees required for monitored group class customers, § 86-51.

Sec. 30-38 Miscellaneous fees

The schedule of miscellaneous fees is as follows:

Delinquent court debt or account referred for collection: Additional 30 percent fee.

Returned check: $35.00.

Municipal court of record technology fee, per incident: $4.00.

Municipal court of record juvenile case manager fee: $3.00.

Municipal court of record building security fee: $3.00.

Municipal court of record transcript preparation fee: $25.00.

Research for nongovernmental requests for public information, per hour for documents located in a remote storage facility, or in two or more separate buildings not physically connected: $15.00.

Annual financial audit/budget: $10.00.

Standard paper copy, per page: $0.10.

Nonstandard size copy:

Diskette, each: $1.00.

Magnetic tape: Actual cost.

Data cartridge: Actual cost.

Tape cartridge: Actual cost.

Rewritable CD (CD-RW): $1.00.

Nonrewritable CD (CD-R): $1.00.

Digital video disc (DVD): $3.00.

JAZ drive: Actual cost.

Other electronic media: Actual cost.

VHS video cassette: $2.50.

Audio cassette: $1.00.

Oversized paper copy, each: $0.50.

Mylar (36", 42" and 48") per lineal foot: $1.35.

Other: Actual cost.

Personnel charge:

Programming personnel, per hour: $28.50.

Other personnel, per hour: $15.00.

Overhead charge: 20% of personnel charge.

Microfiche or microfilm charge:

Paper copy, per page: $0.10.

Fiche or film copy: Actual cost.

Remote document retrieval charge: Actual cost.

Computer resource charge:

Mainframe, per CPU minute: $10.00.

Midsize, per CPU minute: $1.50.

Client/server, per clock hour: $2.20.

PC or LAN, per clock hour: $1.00.

Miscellaneous supplies: Actual cost.

Postage and shipping charge: Actual cost.

Photographs: Actual cost.

Other costs: Actual cost.

Copies of documents (not otherwise listed), per page: $0.10.

Fire department photographic reproductions:

Per unit: $2.00.

Plus processing costs: Actual costs.

Copies of police department accident reports: $6.00.

Fingerprints taken for individuals: $10.00.

Certified documents (not otherwise listed): $9.00.

Board and commission handbook: $5.00.

City Charter: $10.00.

City Code book: $295.00.

City Code supplements: $30.00.

Land use plan: $5.00.

Water and sewer book: $15.00.

Zoning map (1" = 1000' scale): $5.00.

Street map (1" = 1000' scale): $5.00.

Grid map (1" = 1000' scale): $5.00.

Flood hazard boundary map (1" = 1000' scale): $5.00.

Future land use map (1" = 1000' scale): $5.00.

Water and sewer map: $5.00.

State highway 360 plan: $4.00.

Topographic map (two-foot contour interval; 1" = 200' scale): $7.00.

Standard details for public improvements, per sheet: $5.00.

Aerial photo (1" = 200' scale) special order: $7.00.

Microfilm print: $3.00.

1993 Comprehensive Land Development Plan: $$15.00.

Unified Development Code (UDC): $30.00.

Water and sewer master plan map: $3.00.

(Code 1974, § 11/2-20; Ord. No. 1073, § II, 2-11-92; Ord. No. 1105, § I, 2-9-93; Ord. No. 1179, § IV, 6-27-95; Ord. No. 1188, § I, 9-12-95; Ord. No. 1208, § III, 6-25-96; Ord. No. 1237, § 8, 8-12-97; Ord. No. 1394, § 5, 11-23-99; Ord. No. 1478, § 6, 6-26-01; Ord. No. 1572, § 9, 1-14-03; Ord. No. 1614, § 4, 12-9-03; Ord. No. 1740, § 4, 6-27-06; Ord. No. 1814, § 1, 6-10-08; Ord. No. 1857, § 4, 8-25-09; Ord. No. 1877, § 12, 5-25-10)

Cross reference–Records management, § 2-311.

Sec. 30-39 Planning and zoning fees

The schedule of fees for zoning shall be as follows:

(1) Applications for change of zoning: $500.00. Plus $10.00 per acre over 25 acres

(2) Applications for specific use permit containing site area (including parking) between:

Zero to five acre: $250.00.

Five to 25 acres: $500.00.

Over 25 acres: $500.00.

Plus $10.00 per acre over 25 acres

Renewal of specific use permit required by condition: One-half of the original specific use permit fee

(3) Signs:

Annual permit for permanent off-premises sign, per year: $35.00.

Weekend permit for temporary off-premises signs, per weekend: $10.00.

Special event sign, per event: $40.00.

(4) Applications for variances, waivers and special exceptions:

Requiring city council action:

Special exception to minimum masonry requirements: $150.00.

Special exception in conjunction with CUD zoning change requests: $100.00.

Special signage program: $500.00.

Requiring board of adjustment action:

Variance to the zoning district regulations:

Residential: $150.00.

All others: $235.00.

Variance to sign regulations: $450.00.

Appeals to the board of adjustments, per hearing: $75.00.

Requiring planning and zoning commission action:

Variance to the fence and wall regulations: $150.00.

(5) Site plan approval, per request:

1. Zero to 25 acres: $300.00.

2. Greater than 25 acres: $500.00.

Plus $5.00 per acre over 25 acres

(6) Gated neighborhood (serving more than one dwelling unit):

Nine or less dwelling units per acre, per dwelling unit: $50.00.

More than nine dwelling units per acre, per residential structure: $100.00.

(7) Zoning verification letter: $60.00.

(Code 1974, § 11/2-A; Ord. No. 1073, § I, 2-11-92; Ord. No. 1179, § V, 6-27-95; Ord. No. 1332, § I, 6-23-98; Ord. No. 1346, § 4, 12-8-98; Ord. No. 1668, § 1, 11-23-04; Ord. No. 1877, § 13, 5-25-10; Ord. No. 1988, § 5, 2-26-13)

Cross reference–Unified development code, ch. 84.

Sec. 30-40 Subdivisions

Application for preliminary plat: $275.00.

Application for final plat, where public improvements are proposed: $275.00.

Plus $5.00 per acre or $3.00 per lot or unit.

Application for final plat, where no public improvements are proposed: $275.00.

Conveyance plat: $150.00.

Corrected plat, where no public improvements are proposed: $225.00.

Land plan application: $275.00.

Plat extension: Same as original plat fee.

Public works inspection: 3% of actual construction cost.

Public works inspection (after hours and weekends): Additional $50.00 per hour/two-hour minimum .

Public works water main bacteriological testing-first and subsequent retests: 50.00 each sample.

Replat, where public improvements are proposed: $275.00.

Plus $100.00 if a public hearing is required.

Plus $5.00 per acre or $3.00 per lot or unit.

Replat, where no public improvements are proposed: $275.00.

Filing fee. Where any final plat, replat, conveyance plat, minor plat, corrected plat or zoning variance decision is filed with Tarrant County for recording, a fee equal to the amount charged by the Tarrant County Clerk will be required.

Special studies (hydraulic analysis, traffic analysis, etc.): Actual cost plus 10% .

Street and drainage escrow, per linear foot per foot of width: $5.00.

Sanitary sewer pro-rata (lineal foot frontage): $20.00.

Variances or special exceptions to the planning regulations (ch. 84, articles IX, X, XI and XII of the Code of Ordinances (UDC), per hearing: $235.00.

Water pro-rata (lineal foot frontage): $20.00.

(Code 1974, § 11/2-B.7; Ord. No. 1179, § VI, 6-27-95; Ord. No. 1478, § 7, 6-26-01; Ord. No. 1614, § 5, 12-9-03; Ord. No. 1814, § 2, 6-10-08; Ord. No. 1877, § 14, 5-25-10)

Cross reference–Unified development code, ch. 84.

Sec. 30-41 Drainage charges

The following schedule of drainage charges is hereby levied against all real property lying within the city subject to drainage charges under V.T.C.A., Local Government Code § 402.041 et seq.

(1) Basic drainage charge. The monthly drainage rate is hereby established at $18.94 per impervious acre of land. This rate may be modified by the city council from time to time by a modification of such basic drainage charge. Impervious land area shall be calculated by multiplying the acreage of the parcel by the runoff coefficient for the particular land use as specified in subsection (3) of this section.

(2) Single-family residential. The monthly municipal drainage utility charge for each single-family residential parcel is hereby levied at $2.50.

(3) Other. All other lots, tracts and parcels of land within the city shall be charged on the basis of the acreage contained in such lot, tract or parcel of land, and the use made of such property, in accordance with the following schedule of drainage charges, which are hereby levied against all such remaining lots, tracts and parcels of land within the city.

Land use	Runoff Coefficient	Rate	Monthly Charge per Acre
Vacant land	N/A	N/A	$0.00
Park land and open space	$0.35	$18.94	$ 6.63
Church/governmental	$0.80	$ 18.94	$ 15.15
School	$0.65	$18.94	$12.31
Hospital	$0.80	$18.94	$15.15
Multifamily	$0.80	$18.94	$15.15
Business/industrial	$0.95	$18.94	$17.99

(Ord. No. 1040, § I, 12-11-90; Ord. No. 1063, § I, 10-22-91; Ord. No. 1187, § I, 9-12-95; Ord. No. 1254, § 1, 9-9-97)

Cross reference–Schedule of drainage charges, § 86-164; levee of drainage charges, § 86-165; adjustment of drainage charges, § 86-166; late payment and penalty for delinquent drainage charges, § 86-167.

Sec. 30-42 Minimum housing licensing and related fees

(a) License fee. $10.00 per dwelling unit, with a maximum of $1,200.00, payable at time of annual licensing.

(b) License or renewals shall be assessed an additional fee increase of:

10 percent of license fee if within one month of due date;

30 percent of license fee if within two months of due date; and,

50 percent of license fee if thereafter.

(c) Primary inspection and secondary inspection fees. Applicable to tier 2 and tier 3 properties, a fee of ten dollars per dwelling unit times the number of primary inspection and subsequent secondary inspection(s) performed in 12-month period of time, calculated at time of annual licensing, payable monthly.

(d) Reinspection fees. A fee of $100.00 shall be charged by Code Compliance for a second reinspection due to a noted violation at a previous inspection.

(e) New license fee. If a change in ownership of the complex occurs during the period that a license is otherwise valid, the landlord of the complex shall have 30 days from the date of the change of ownership to file a new license application with code compliance and shall pay a $25.00 fee to re-issue the license

(f) New license late fee. License re-issues received by code compliance more than 30 days after ownership change shall be assessed a late fee of $75.00 at the time of license re-issue.

(Ord. No. 1097, § II, 10-13-92; Ord. No. 1851, § 2, 6-23-09; Ord. No. 1975, § II, 11-13-12)

Sec. 30-43 Use of streets, etc

The fee for the use of public street, alley or sidewalk space for construction purposes is $50.00 per project.

Cross reference–Use of space on streets, etc., § 14-2(1).

Sec. 30-44 Dangerous buildings/structure abatement fees

Base administrative fee: $500.00.

Other costs/fees: Actual cost.

(Ord. No. 1179, § VII, 6-27-95)

Sec. 30-45 Gas well permit and contract fees

Gas well pad site permit: $1,500.00.

(May be credited towards gas well operations permit fee for first well)

Gas well operations permit (per well): $3,000.00.

Amended permit: $540.00.

Extended permit: $270.00.

Supplemental permit (change in depth or use from current permit): $180.00.

Operator transfer: $720.00.

Seismic site inspection: $360.00.

Annual fee (per well): $500.00.

Fracture pond: $500.00.

Contract fee for technical expertise (per each new, supplement, or amended application review) - not to exceed amount for actual expenses.: $5,000.00.

Contract fee for gas well inspection services provider (per gas well): $5,000.00.

Each major activity inspection, including re-drilling, re-working, and refracture stimulation) (not to exceed amount for actual expenses): $5,000.00.

Right-of-way use (pipeline) application fee: $1,500.00.

Right-of-way use fee (per linear foot): $46.00.

Construction plan review/inspection fee: 3 percent of construction cost.

Inspection (after hours and weekends): additional $50.00 per hour (two hour minimum).

(Ord. No. 1760, § I, 11-28-06; Ord. No. 1852, § 4, 6-23-09)

Sec. 30-46 Telecommunication facilities contract fees

Contract fee paid by applicant for technical expertise for review of application, not to exceed $5,000.00.

(Ord. No. 1826, § 3, 9-9-08)

Sec. 30-47 Commercial motor vehicle permit fees

(a) Overweight load, single-trip permit only: $60.00.

(b) Oversize load:

(1) Single-trip: $60.00.

(2) Not to exceed 30 days: $120.00.

(3) Not to exceed 60 days: $180.00.

(4) Not to exceed 90 days: $240.00.

(5) Not to exceed 365 days: $270.00.

(Ord. No. 1899, § 2, 1-25-11)

Cross reference–Commercial motor vehicle safety standards, § 82-130 et seq.

CHAPTERS 31 - 33
RESERVED

CHAPTER 34
FIRE PREVENTION AND PROTECTION*(40)

ARTICLE I. IN GENERAL

Sec. 34-1 Arson reward

The city hereby offers a reward of $500.00 for the arrest and conviction of any person found guilty of committing the crime of arson within the city. This reward is a standing reward offer and shall be paid out of the general fund of the city to the recipient, upon application by the fire marshal and its approval by the city manager.

(Code 1974, § 6-5; Ord. No. 1088, § II, 8-25-92)

Cross reference–Miscellaneous offenses, ch. 50.
State law reference–Crime of arson, V.T.C.A., Penal Code § 28.02.

Sec. 34-2 Keeping dangerous premises

Any owner or occupant of a building or other structure or premises who shall keep or maintain such building, structure or premises when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire, and which is so occupied that fire

would endanger other persons or their property therein, shall be punished in accordance with the penalty as is provided in this chapter.

(Code 1974, § 6-49)

Cross reference–Buildings and building regulations, ch. 14; nuisances, ch. 46.

Sec. 34-3 Keeping dangerous appliances, etc

Any owner or occupant of any building or other structure or premises who shall keep or maintain such building, structure or premises with improper arrangement of a stove, range, furnace or other heating appliances of any kind whatsoever, including chimneys, flues and pipes with which such stove, range, furnace or other heating appliance may be connected, so as to be dangerous in the matter of fire or health or safety of persons or property of others; or who shall keep or maintain any building, other structure or premises with an improper arrangement of a lighting device, or with storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, flammable materials, refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen or occupants of such building, structure or premises other than the maintainer thereof, shall be punished in accordance with the penalty as is provided in this chapter.

(Code 1974, § 6-50)

Sec. 34-4 Licensing of fire extinguisher sales and service

Persons engaged in the sale, service, repair and/or maintenance of fire extinguishers or fire extinguishing systems in the city shall first obtain a permit for either or both from the city. No such permit shall be issued to any persons who do not have an appropriate current certificate of registration or license from the state fire marshal. Applicants shall furnish names, addresses, and any information necessary to ascertain compliance with this section as well as those regulations under state law. The fee for the city permit shall be as established in chapter 30.

(Code 1974, § 6-73)

Cross reference–Businesses, ch. 18.

Sec. 34-5 Violations–Penalty; remedies

Any person violating the terms and provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Any such violation shall be deemed a violation of a provision governing public health and sanitation under section 1-12 of this Code.

(Code 1974, § 6-51(a); Ord. No. 1088, § V, 8-25-92)

Sec. 34-6 Same–Notice prerequisite to prosecution

No prosecution shall be brought under sections 34-2 and 34-3 until the order provided for in section 34-73 be given, and the party notified shall fail or refuse to comply with such order.

(Code 1974, § 6-52)

Secs. 34-7–34-35 Reserved

ARTICLE II. FIRE DEPARTMENT*(41)

Sec. 34-36 Established

There is hereby established a fire department in the city.

(Code 1974, § 6-20)

Sec. 34-37 Membership

The members of the fire department shall be a chief, who shall be appointed by the city manager, and such number of other officers, firefighters and employees as the city council may from time to time authorize. The chief shall have immediate direction and control of the fire department, subject to such rules and regulations as the city manager may promulgate.

(Code 1974, § 6-21)

Sec. 34-38 Carrying out rules, etc.; reports

It shall be the duty of the chief of the fire department to see that the laws of the state and the ordinances, orders, rules and regulations of the city council and city manager concerning the department and the operation thereof are carried into full force and effect. It shall be the duty of such members to enforce the rules and regulations made from time to time to secure discipline in the fire department. The chief shall have the power to suspend any subordinate officers, members or employees of the fire department for a violation of such rules and regulations, and shall, upon executing any such suspension, forthwith, in writing, advise the city manager of such suspension and his reasons therefor. The chief shall diligently observe the condition of fire apparatus and the workings of the fire department at all times, and shall report in writing at any time to the city manager and make, in connection with such equipment, such recommendations as he may desire for the efficiency of such equipment and the fire department.

(Code 1974, § 6-22)

Sec. 34-39 Demolition of structures at fires

Whenever any building in the city is on fire, it shall be lawful for the chief of the fire department, or acting chief, to direct such building, or other building, or structure or fence, which he may deem hazardous or likely to catch fire and spread to other buildings, to be torn down or blown up, or otherwise destroyed, for the purpose of checking or otherwise extinguishing such fire, and neither the city council nor any individual member thereof, nor the chief or any member of

the fire department, shall in any way be held responsible for the damaging of property or the destruction thereof that may occur by reason of the attempt of the fire department to extinguish such fire.

(Code 1974, § 6-23)

Sec. 34-40 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-40 in its entirety. Former § 34-40 pertained to roping off fire scene and derived from Code 1974, § 6-24.

Sec. 34-41 Reserved

Editor's note-–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-41 in its entirety. Former § 34-41 pertained to command of fire officials at fires and derived from Code 1974, § 6-26.

Sec. 34-42 Hindering firefighters

It shall be unlawful for any person not a member of the fire department to interfere with, or in any manner hinder, any member or employee of the fire department in the discharge of his duties as such.

(Code 1974, § 6-27)

State law reference–Obstructing firefighters, V.T.C.A., Penal Code § 42.03(a)(2).

Sec. 34-43 Interfering with apparatus

It shall be unlawful for any person not a member of the fire department to interfere with, or in any manner hinder, any of the apparatus belonging to or used by fire department, either at a fire or while traveling to or returning from a fire, or while standing in the fire department quarters, or at any time, unless such person is requested to do so by the chief of the fire department or other duly authorized officer of the fire department.

(Code 1974, § 6-28)

Secs. 34-44–34-65 Reserved

ARTICLE III. FIRE MARSHAL*(42)

Sec. 34-66 Office created; appointment; removal

The office of the fire marshal is hereby created. Such office shall be filled by appointment of the fire chief. The fire marshal shall be properly qualified for the duties of his office and shall be removed only by the fire chief and shall be removed only for cause.

(Code 1974, § 6-40; Ord. No. 1109, § 6, 4-13-93)

Sec. 34-67 Ex officio or assistant

The fire marshal, with the advice and consent of the fire chief, may designate in writing the building inspector or any full-time employee of the fire department as ex officio fire marshal and assistant to the fire marshal for the purpose of enforcing this article. Such ex officio designation may be terminated at will by the fire marshal with the consent of the fire chief.

(Code 1974, § 6-41)

Sec. 34-68 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-68 in its entirety. Former § 34-68 pertained to investigating fires; records and derived from Code 1974, § 6-42.

Sec. 34-69 Obtaining evidence–Taking testimony, arrest of offender

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

(Code 1974, § 6-43)

Sec. 34-70 Same–Summoning witnesses; subpoenaing books, etc

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

(Code 1974, § 6-44)

Sec. 34-71 Prosecuting offending witnesses

Any witnesses who refuse to be sworn, or who refuse to appear or testify, or who disobey any lawful order of the fire marshal, or who fail or refuse to produce any book, paper or document touching any matter under examination, or who are guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of such investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted.

(Code 1974, § 6-45)

Sec. 34-72 Privacy of hearings; invoking rule

All investigations held by or under the direction of the fire marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

(Code 1974, § 6-46)

Sec. 34-73 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-73 in its entirety. Former § 34-73 pertained to right of entry and derived from Code 1974, § 6-47.

Sec. 34-74 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-74 in its entirety. Former § 34-74 pertained to inspection on complaint or periodically; appeals from orders; reports to state fire marshal and derived from Code 1974, § 6-48.

Sec. 34-75 Authority to establish policy standards

The fire marshal shall have authority to establish certain policy guidelines or standards regulating various provisions of the fire code adopted in this chapter that are subject to the standardization of construction methods and/or local interpretation. The fire marshal shall have the authority to outline conditions for the installation and testing of fire protection equipment and appliances and provide for code consistency to rules, regulations, or laws with county, state or federal agencies. Copies of these policy statements and interpretations are on file with the city secretary.

(Ord. No. 1088, § II, 8-25-92)

Secs. 34-76–34-100 Reserved

ARTICLE IV. STANDARDS

Sec. 34-101 Fire prevention code adopted

The City of Euless hereby adopts the International Fire Code published by the International Code Council, 2009 Edition, save and except such portions as are hereafter amended, deleted or modified by this chapter. The 2009 International Fire Code is hereby adopted and incorporated as fully as if set out at length herein and from and after the passage of the ordinance adopting this section, the provisions thereof shall be controlling within the limits of the city. The adoption of the 2009 International Fire Code does not extend to the appendices thereto unless specifically adopted in this chapter. A copy of the 2009 International Fire Code will be kept on file in the office of the city secretary.

(Code 1974, § 6-1(a); Ord. No. 1088, § I(1), 8-25-92; Ord. No. 1124, § II, 1-25-94; Ord. No. 1479, § I, 6-12-01; Ord. No. 1654, § I, 8-31-04; Ord. No. 1931, § I, 1-24-12)

Sec. 34-102 Definitions

Whenever and wherever used in the International Fire Code or this chapter, the following terms shall have the meanings ascribed below:

(1) Wherever the word "jurisdiction" is used in the International Fire Code, it shall mean the City of Euless.

(2) Wherever the terms "fire marshal, code official, fire code official, fire code authority, code authority, fire prevention officer, fire prevention engineer or authority having jurisdiction are used in the context of the International Fire Code or this chapter or related standards or rules, such terms shall mean the chief of the bureau of fire prevention of the city or his designee.

(3) The term "International Fire Code" shall mean the 2009 International Fire Code and all supplements, attachments and amendments adopted by the city.

(Code 1974, § 6-1(b); Ord. No. 1088, § I(2), 8-25-92; Ord. No. 1479, § II, 6-12-01; Ord. No. 1654, § II, 8-31-04; Ord. No. 1931, § II, 1-24-12)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 34-103 Fire prevention officer

The fire code shall be administered and enforced by the fire marshal. The fire chief shall appoint, on the basis of qualifications, one of the classified fire personnel to perform the duties of fire prevention, and such person shall be known as the chief of the bureau of fire prevention and shall perform those duties assigned in this chapter to the fire marshal, fire and arson investigator, fire inspector or fire prevention engineer. Other personnel may be assigned by the fire chief as needed or required to perform one or more of such functions, to hold one or more of such positions and/or assist personnel assigned to or holding one or more such positions.

(Code 1974, § 6-1(c); Ord. No. 1088, § I(3), 8-25-92)

Cross reference–Officers and employees, § 2-116 et seq.

Sec. 34-104 Storage of hazardous materials

The establishment of limits or districts in which storage of flammable or combustible liquids in outside, aboveground tanks is to be prohibited, and where the storage of hazardous or explosive materials is restricted, shall be as follows:

(1) The limits referred to in Section 3404.2.9.6.1 and 3406.2.4.4 of the International Fire Code, in which storage of flammable or combustible liquids in outside, aboveground tanks is prohibited, are hereby established as follows:

a. Flammable liquids:

1. Motor Fuels are prohibited in aboveground tanks or in tanks contained within vaults in the entire City of Euless, except as follows;

(i) Installations complying with the provisions of the International Fire Code, Section 2206, and that are in an area zoned as TX-10, C-2, L-1, I-1, I-2 or TX-121 zoning district;

(ii) Temporary storage of flammable liquids as needed for temporary use at construction or similar temporary locations when approved by the fire code official and when in compliance with Section 2204.5;

(iii) Tanks that are within a planned development district which specifically authorizes such use, when the requirements of the International Fire Code are met.

(iv) Facilities owned or under the direct control of a governmental entity where the fuel is necessary for the operation of emergency generators or other equipment critical to the infrastructure.

2. Aboveground storage tanks are prohibited for retail sales of motor fuels.

3. Other flammable liquids are prohibited in aboveground tanks or in tanks contained within vaults in the entire City of Euless, except flammable liquids incidental to a commercial or manufacturing process may be allowed in outdoor aboveground tanks provided the construction, installation, and placement of the tank and the handling and use of the liquid conforms to the requirements of the International Fire Code, and other applicable standards, and further provided that such tanks are located in an area zoned as a TX-10, C-2, L-1, I-1, I-2 or TX-121 zoning district, or are within a planned development district which specifically authorizes such use.

b. Combustible liquids:

1. Motor fuels: The storage of motor fuels is prohibited within the entire city, with the following exceptions:

(i) Subdivision development and construction sites when the fuel storage is in compliance with the requirements of the International Fire Code, Section 2206.

(ii) Installations within the limits allowed under the provisions of Section 2206 and complying with the provisions of Section 2206 provided the installation is in an area classified as TX-10, C-2, L-1, I-1, I-2 or TX-121 zoning district or has approval for such installation as part of a PD zoning district.

(iii) Fuel associated with road projects that are under the control of the Texas Department of Transportation.

(iv) Provided that the storage of diesel and other class II motor fuels in outside, aboveground tanks under these exceptions is conditioned that the construction, installation, and placement of the tank and the handling and use of the fuel conforms to the requirements of the International Fire Code and other applicable standards. Aboveground storage tanks are prohibited for retail sales of motor fuels.

(v) Facilities owned or under the direct control of a governmental entity where the fuel is necessary for the operation of emergency generators or other equipment critical to the infrastructure.

2. Other combustible liquids: The storage of other combustible liquids is prohibited within the entire city, with the following exceptions:

(i) Property located within the following zoning districts: TX-10, C-2, L-1, I-1, I-2 or TX-121 zoning districts and where specifically authorized in planned development districts or when approved by an SUP.

3. It is the intention of this section to entirely prohibit bulk plants and refineries for flammable or combustible liquids within the corporate limits of the City of Euless.

(2) Establishment of safety rules for the storage of liquefied petroleum gas. The limits referred to in Section 3804.2 of the International Fire Code which restrict the storage of liquefied petroleum gas is hereby established as the entire city; it being the intention of this body to entirely prohibit the bulk storage of liquefied petroleum gas within the corporate limits of the city. For the purposes of this Code, bulk storage of LPG shall be defined as an aggregate capacity of any one installation exceeding a 2,000 gallon water capacity.

a. The storage and use of liquefied petroleum gases shall be in accordance with the International Fire Code, N.F.P.A. Standard #58 and any rules adopted by the Railroad Commission of Texas. Where a conflict exists between these regulations, the more restrictive shall apply.

b. Liquefied petroleum gas is prohibited in the city with the following exceptions.

1. Residential zoning districts are permitted one tank per lot, not to exceed a 500 WGC (water gallon capacity) tank, for the purposes of providing gas service to pools, spas or outdoor appliances, provided natural gas is not available to the site, and provided the tank complies with the spacing provisions of this code and can be positioned to be immediately accessible to fire personnel in the event of an emergency.

2. Commercial zoning districts including such uses in the TX-10 and TX-121 gateway district are permitted tanks of up to an aggregate amount of 2,000 WGC capacity, provided they meet the provisions of this code. Larger tanks are permitted with a PD or SUP only.

3. LPG tanks installed prior to the effective date of this ordinance that were in compliance with applicable codes at the time of their installation are allowed to continue in use. Any tank covered by this exception may not be replaced with a tank in violation of this section. New LPG tanks in residential areas, including multifamily, unless exempted elsewhere in this ordinance, are permitted for uses external to the structure only.

c. It is the specific intent of this section to prohibit the bulk storage of LP gas within the city except as herein established.

d. Quantities referred to in this section are aggregate quantities on each tract of land. It is the responsibility of the property owner and the installer of any LPG tank to insure compliance with these regulations and any tank installed in violation of these provisions must be immediately removed.

(3) The restrictions referred to in Section 3301.2.3, in which the quantity of explosives, explosive materials or fireworks are prohibited are established as the entire city; except those locations where the storage or use of materials regulated by Chapter 33 of the International Fire Code are permitted by zoning ordinances, the gas well ordinance, and through the issuance of a permit by the fire department.

(4) The limits referred to in Section 3804.2 for the storage of liquefied petroleum gas shall also apply to the storage of compressed natural gas and other alternative fuels. CNG is prohibited except in those areas as are hereby established: The entire city except those areas and quantities as established for liquefied petroleum gases.

(5) The presence of flammable cryogenic fluids in stationary containers is prohibited in the entire city.

(6) Limits on storage of hazardous materials. The presence of hazardous materials in excess of the exempt amounts as defined in the International Fire Code is prohibited in the entire city except properties located within commercial/industrial zoning districts, including such uses in the TX-10 and TX-121 gateway district or where specifically authorized in planned development districts or through an SUP.

(Code 1974, § 6-1(d); Ord. No. 1088, § I(4), 8-25-92; Ord. No. 1479, § III, 6-12-01; Ord. No. 1654, § III, 8-31-04; Ord. No. 1697, § 1, 8-16-05; Ord. No. 1931, § III, 1-24-12)

Editor's note–Ord. No. 1931, § III, adopted Jan. 24, 2012, changed the title of § 34-104 from districts to storage of hazardous materials.
Cross reference–Buildings and building regulations, ch. 14.
State law reference–Authority to establish fire limits, V.T.C.A., Local Government Code § 342.012.

Sec. 34-105 Amendments to the International Fire Code

The 2009 International Fire Code is amended and changed in the following respects:

(1) Section 101.1 is amended to read as follows:

"101.1 Title. These regulations shall be known hereafter as the Fire Code of Euless, Texas, hereinafter referred to as 'this code'."

(2) Article I of the International Fire Code is hereby amended by adding a new Section 101.6 to read as follows:

"1 Compliance Certification. A letter on company letterhead may be required by the fire code official from a contractor that certifies compliance with the International Fire Code or recognized standards, regarding the technical installation of a fire protection system or notification equipment, system or operation thereof. The fire code official may require said letter(s) to be notarized.

2. A letter may be required for the following:

2.1. Automatic fire alarm system

2.2. Automatic fire extinguishing system

2.3. Storage/use of hazardous materials

2.4. Maintenance of fire protection equipment

2.5. Flame retardant applications

2.6. LPG, LNG, CNG installations and operations

2.7. Flammable and combustible installations and operations

2.8. Radioactive materials use, storage and appliances

2.9. Emergency power systems and appliances

2.10. Life safety systems, devices, appliances, installation and operation

2.11. Other processes and installations as deemed necessary by the fire code official.

3. The letter of certification shall be on company letterhead, signed by an authorized agent of the company acceptable to the fire code official, and filed before or at the time of final approval.

4. All compliance testing and final acceptance shall be witnessed by the fire code official or his authorized representative. A representative of the installer shall be in attendance at all compliance testing or approval."

(3) Section 102.1 Change #3 to read as follows:

"3. Existing structures, facilities and conditions when required in Chapter 46 or in specific sections of this code."

(4) Section 102.3.1 is amended to add the following:

"102.3.1 Change of use or occupancy. The provisions of Section 102.4 and Section 903.1.4 shall apply, where applicable, when a change in occupancy classification or use occurs with an existing building."

(5) Section 102.5 is amended to add the following:

"3. Amendments to this code shall apply."

(6) Section 102.7 is amended to read as follows:

"102.7 Referenced codes and standards. The codes and standards referenced in this code shall be those that are listed in Chapter 47 and such codes when specifically adopted and standards, shall be considered part of the requirements of this code to the prescribed extent of each such reference. Where differences occur between the provisions of this code and the referenced standards, the provisions of this code shall apply. Whenever amendments have been adopted to the referenced codes and standards, each reference to said code and standard shall be considered to reference the amendments as well. Any reference to NFPA 70 or the ICC Electrical Code shall mean the Electrical Code as adopted."

(7) Section 103.1 is amended to add the following:

"1. The fire department is charged with enforcement of the International Fire Code as well as other ordinances and laws over which the fire prevention division has responsibility. The fire department has the authority to enforce any provision of the current adopted building code, plumbing code, fuel gas code, mechanical code, property maintenance code or electrical code related to fire or life safety features of the referenced codes. Any interpretation of the codes are the sole responsibility of the code official having jurisdiction over the code in question as defined by ordinance or standard operating practices within the City of Euless. Corrective notices, citations or other corrective actions as allowed by law may be issued for violations of the referenced codes. The fire prevention division shall be operated under the supervision of the fire chief.

2. The chief of the fire department shall appoint a fire marshal, who shall be responsible for the provisions of the International Fire Code and related duties and functions as described by law or policy. The fire marshal is designated as the "fire code official" and the "code authority" for the International Fire Code. The chief may detail such members of the department to the fire prevention division as may be necessary. The chief is authorized to request that the police department appoint up to ten (10) personnel within the fire department as peace officers for the purposes of functioning as arson investigators, provided

those personnel meet the requirements as outlined by the State of Texas for said appointments. All members of the Euless Fire Department are authorized to request compliance with any provision of the codes as described in subsection (a), except that only those members of the department who have been specifically granted authority by the chief and fire marshal, and who have completed formal training and have a certification as an inspector or peace officer may issue a citation, or take enforcement action. The fire marshal, inspectors, investigators and any peace officer employed by or working under the direction of the Euless Police Department or the Euless Fire Department may issue citations for any violations of the International Fire Code. Fire department personnel may take any action as allowed by law to remedy a violation of the code."

(8) Section 104.1.2 is added to read as follows:

"Section 104.1.2 - Fire department authority, disconnection of utilities and evacuation. The fire marshal, employees of the fire prevention division and other fire department personnel who may be authorized by the fire chief shall have the powers of a police officer in performing their duties under this code and are authorized to issue citations for offenses and to pursue other legal remedies allowed by law. Citations may be issued for any violation of this code, or any other code, policy or standard, over which the fire department has jurisdiction. Citations for any violation may be issued to the owner, lessee, manager, person in control of the property, and/or any other individual who is responsible for the violation or the property on which a violation occurs. The specific intent of this code is to place the obligation of complying with its requirements upon the owner or occupier of premises, buildings or structures within its scope. No provision or term used in this code is intended to impose any duty whatsoever upon the City or any of its officers or employees, for whom the implementation or enforcement of this code shall be discretionary, not mandatory. Nothing contained in this ordinance is intended to, nor shall be construed to, create or form the basis for any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from the failure of the owner or occupier of premises, buildings or structures to comply with this code, or for any injury or damage caused by any act or omission on the part of the City by its officers, employees or agents in the course of implementing or enforcing this code.

1. The chief, fire marshal or any authorized employee of the fire department may order an operation or use stopped, or the evacuation of any area, premises, building or vehicle or portion thereof, which contains or is a fire hazard or when it is deemed necessary in the interest of public safety or the safety of emergency responders. It shall be unlawful for any person to refuse to evacuate upon such order or to resist or obstruct the evacuation of another person. The fire chief, fire marshal or their designee shall further have the authority to order the disconnection of utilities to a building or portion thereof to alleviate an immediate and imminent threat to life or property that is occurring in violation of the codes or to alleviate a fire or life safety hazard that causes an immediate threat to a building or a person and may secure a building or portion thereof in any way

deemed necessary to prevent unauthorized re-entry. It is unlawful for any person to resist, interfere with or refuse to comply with an order issued under this Section."

(9) Section 104.7.2 is amended to add the following.

"The fire code official may require any plans submitted to be reviewed by an outside professional engineer or appropriate specialist when, in the opinion of the fire code official, there exists special technical knowledge to conduct a satisfactory review of the plans and such special knowledge is not available among the fire department staff. Fees associated with outside plan reviews are the sole responsibility of the submitting party. The person or firm conducting the plan review must be an unbiased third party who meets the approval of the submitting party and the City of Euless."

(10) Section 104.11.4 is added to read as follows:

"104.11.4 - Closure of public ways - Any employee of the fire department shall have the authority to close or restrict access to any street, alley, sidewalk, public or private place, or portion thereof, when necessary for purposes of public safety involving City employees or the general public. It shall be unlawful for any person or vehicle to disregard or proceed past barricades, barricade tape, traffic cones, emergency vehicles positioned to obstruct an area, or any uniformed or identified City employee directing persons or vehicles."

(11) Section 105.1.1 is amended to add the following:

"1. Before the installation of any system or component regulated by a permit all plans or other information as required by the fire department and outlined in the application for permit must be provided, and a permit issued prior to construction or installation of the affected component occurring, or the continued operation of the permitted process, activity or condition occurring. Construction permits shall be posted in a public location at the address for which it was issued during the progress of the work being performed and shall be present with an approved set of plans stamped and signed by a representative of the Euless Fire Department.

2. Any information requested by the Fire marshal's office, including independent review of components by an outside professional engineer or appropriate specialist must be completed at the expense of the permit applicant prior to the permit being issued.

3. Permits and fees will be established by separate ordinance, but are incorporated into this section as if they were fully outlined herein. Failure to pay a fee within thirty (30) days of billing for said permit or billable service is a violation of this Ordinance and may result in revocation of the permit, a fine or both."

(12) Section 105, "Permits" of the International Fire Code is hereby amended by adding a new paragraph 105.1.1.1 to be and read as follows:

"Section 105.1.1.1 Permit fees. No permit shall be issued unless the applicant has first paid at the Bureau of Fire Prevention, the fee required therefor as set forth in Chapter 30 of the Euless Code of Ordinances.

1. Consolidation of permits. Where permits are consolidated as outlined in Section 105.1.3, the permit fee shall be the sum of all fees for all uses so consolidated.

2. Uses in existence at the time of adoption of this code and having no previous permit shall be subject to the provisions of this section for requiring a permit. Any change in a business requiring a new Certificate of Occupancy or Business License shall void such permits previously issued and require new permits if otherwise required herein for the new business or activity.

3. Operational permits as referenced in 105.6 shall have an expiration date not to exceed one (1) year from the date of issuance unless otherwise specified on the face of the permit. The fire marshal has the authority to establish an expiration date of less than a year for a specific operational permit or operational permit type. Temporary permits shall be valid for a period of time as set forth by the fire code official in such permit. Reviews of permit applications and inspections conducted pursuant to this code are spot checks designed to encourage compliance and are not in any way representations, guarantees or assurances that work or conditions regulated by permits comply with any applicable codes. For construction permits see 105.7.

4. Operational permits issued, and for which the activity, operation, practice, or function is still in existence and which are not renewed within ten (10) days after expiration shall accrue a penalty fee as set forth in chapter 30 of the Euless Code of Ordinances. Such fee shall be levied in addition to the regular fee schedule. This late fee penalty does not negate the issuance of a citation for violation or noncompliance.

5. Construction permit fees doubled. Permit fees shall be doubled if the owner, operator, developer or contractor has begun work or caused such activity, operation, practice, or function to begin without first obtaining the applicable construction permit.

6. After-hours inspections. An inspection may be scheduled after normal duty hours, (generally defined as outside of 0800 to 1700 hours, Monday through Friday, excluding holidays) by special arrangement with the fire code official.

7. After-hours inspection fee. A per hour fee shall be paid in advance for the special inspection at a rate as defined in Section 30-15 of the City of Euless Code of Ordinances. The fire code official shall determine the number of total man-hours necessary to perform the inspection or service

and advanced payment shall be made based on that determination. Additional time charges in excess of the anticipated amount will be billed to the person or company requesting the service. Payment shall not be pro-rated in amounts less than one (1) hour increments with a four (4) hour minimum.

8. Re-inspection fees. A fee established by ordinance may be collected for any inspection in excess of three (3) to enforce or ensure compliance with a provision of this chapter. The fee must be paid within thirty 30 days or prior to any further inspections being conducted at the site."

(13) Section 105.4.1 is amended to read as follows:

"105.4.1 Submittals. Construction documents and supporting data shall be submitted in two (2) or more sets with each application for a permit and in such form and detail as required by the fire code official. The construction documents shall be prepared by a registered design professional as required by State or local laws or rules."

(14) Section 105.6 is amended by revising the opening paragraph to read as follows:

"105.6 Required operational permits. The fire code official is authorized to issue operational permits for the operations set forth in Sections 105.6.1 through 105.6.46. Permits listed in this section are required when specified by the fire code official or other applicable City Ordinance. All established policies and procedures of the fire department must be complied with to obtain a required permit. Annual (operational) permits are valid for one year from the date of issue unless otherwise as provided herein or specified by policy. Annual permits become invalid when a new Certificate of Occupancy or Business License is issued for a facility for which an annual permit is required."

(15) Section 105.6 is further amended by adding or revising the following operational permits:

"105.6.3.1 Business license. A business license or certificate of occupancy is required for any business to operate in the City of Euless. The business license or certificate of occupancy must be posted in the premises or be readily available upon request by any city official. Business licenses are not transferable and are valid from the date of issue forward unless the license is invalidated due to a change of name, change of use, change of location or change of owner of the business.

105.6.19.1 Gates crossing fire lanes. An operational permit is required to maintain, operate or use any gate that is operated by any mechanical means that crosses or restricts access through or along any private street, emergency access easement or fire lane. A single gate permit may be issued to operate all gates at a specific site. A current emergency access code is required to be provided for each gate.

105.6.20 Hazardous materials. An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20 or materials that pose a potential health or fire hazard in the

opinion of the fire code official that are not listed in the Table.

105.6.28.1 Mobile fuel dispensing. An annual operational permit is required prior to any dispensing of motor vehicle fuel from tank vehicles into fuel tanks of motor vehicles located at commercial, industrial, governmental or manufacturing establishments. Specific requirements are found in Chapter 34. The permit is site specific and must be obtained by the owner of the property.

105.6.40.1 Speed bumps. An operational permit is required to maintain speed bumps/humps in any fire apparatus access road in the City.

105.6.44.1 Underground storage tank. An annual registration permit is required for any underground storage tank containing, or having contained, a material requiring a hazardous materials permit.

(16) Section 105.7 is amended by adding the following construction permits:

105.7.1.1 Aboveground storage tank. A construction permit is required to install an aboveground storage tank with a capacity of greater than four hundred ninety nine (499) gallons of product. A separate permit is required for each tank.

Exception: Storage tanks containing only water or other products that pose no fire or health risks, provided such tanks are properly identified as being non-hazardous and when approved by the fire code official.

105.7.4.1 Egress control devices. A construction permit is required to install an egress control device upon any required exit door or required Fire Department access door. An egress control device is any device other than traditional locking hardware and includes magnetic locks and similar devices.

105.7.5.1 Fire Lane Repair. When required by the fire code official, a construction permit is required to notify the fire department when repairs to any fire lane will occur that will render any part of the fire lane to be reduced in width at any point.

105.7.7.1 Gate installation. A construction permit is required to install any gate that is operated by any mechanical means that crosses or restricts access through any private street, emergency access easements or fire lane. Gate installation permits are required prior to the gate(s) being installed. Multiple gates may be included on one construction permit if all work will be completed at the same time.

105.7.11.1 Private fire lines, underground fire lines, and fire hydrants. A construction permit is required to install, extend, or replace any underground private fire line, sprinkler lead or private fire hydrant.

105.7.11.2 Smoke control. A construction permit is required to install a smoke control system as specified in Section 909 or 910 respectively. Maintenance performed in accordance with this code is not considered a modification and does not require a permit.

105.7.11.3 Speed bumps. A permit is required to install speed bumps in any fire apparatus access road in the City.

105.7.15 Storage tank misc. equipment. A construction permit is required to install, remove, repair, or modify piping, delivery devices, dispensers, vent pipes or other components of an underground chemical storage tank and its distribution system or other components.

105.7.16 Underground storage tank. A construction permit is required to install, remove or repair any underground storage tank.

105.7.17 Vent A Hood. A construction permit is required to install a vent a hood in a commercial establishment in the City."

(17) Section 108.4 is added to read as follows:

"Section 108.4 Board of appeals. The board of appeals shall be the Euless Zoning Board of Adjustment (ZBA). When the conditions or circumstances of the appeal are determined to be outside the scope of knowledge of the ZBA, the chairman of the ZBA may request a special board of appeals be appointed by the city council. Such special board shall consist of three persons who have adequate knowledge and experience in the matter being discussed to render an opinion. Names of potential board members shall be provided to the city council for consideration at the appropriate time. The term of a special board of appeals shall expire once the matter before them is decided."

(18) Section 108.5 is added to read as follows:

"Section 108.5 Administrative board of appeals and review. An administrative board of appeals and review is established with the authority to review appeals originating under Section 903.1.4 of this code. The administrative board of appeals and review shall consist of the city manager or his designee, the fire chief and the fire marshal. This board may grant relief in the form of additional time to comply with a sprinkler requirement that is created by Section 903.1.4, and to establish when a building is considered to have become subject to the provisions of Section 903.1.4 (1) or (2). The board may also review the specific circumstances surrounding the application of any provision of Section 903.1.4 and may issue waivers or modify requirements on a case by case basis in order to accomplish the objectives of this code and to assure that the provisions of Section 903.1.4 are being reasonably applied based on a cost/benefit analysis.

108.5.1 Appeal to administrative board of appeals and review. A request for an appeal to the administrative board of appeals and review must be submitted in writing to the city manager, who will convene a meeting of the board in a reasonable period of time for the purposes of addressing the appeal. The applicant must submit the request for appeal within thirty (30) calendar days of the occurrence of the interpretation or action being appealed.

108.5.2 Appeal to board of appeals. A decision by the administrative board of

appeals and review can be appealed to the board of appeals by the applicant within thirty (30) days of the decision being rendered. A request for an appeal to the board of appeals must be submitted in writing to the fire code official who will deliver the request to the Planning Department within seven (7) days. The Planning Department will schedule the hearing before the board of appeals and notify the applicant of the hearing date and time.

(19) Sections 108.6 and 108.7 are added to read as follows:

"Section 108.6 Rehearing; Appeal. Either party can request a rehearing before the board of appeals a maximum of one time on a specific appeal provided a request for rehearing is submitted in writing to the City Manager within thirty (30) days of a decision being rendered by the board of appeals.

Section 108.7 Appeal to District Court. A decision by the board of appeals may be appealed to a District Court by any aggrieved party within thirty (30) days of the decision of the board of appeals."

(20) Section 109.1.1 is added to read as follows:

"109.1.1 Compliance with codes. Any person who violates, disobeys, omits, neglects, or refuses to comply with, or who resists the enforcement of the provisions of this or other codes as referenced in this ordinance, shall be guilty of a misdemeanor and subject to the penalties as set forth in the Code of Ordinances of the City. In addition to these penalties the fire code official is authorized to close any business, or shut down any operation when any hazard or condition exists therein that poses a serious and imminent threat to life or property. Any reasonable methods may be used to affect closure, including, but not limited to, disconnection of utilities and padlocking of any doors. Any person in control of or occupying any premises ordered closed, or performing or overseeing any operation ordered discontinued, who refuses an order to leave, or to discontinue is guilty of a misdemeanor and subject to the penalties described herein."

(21) Section 109.2.2.1 is added to read as follows:

"Section 109.2.2.1 Presumption of control. The owner, manager, occupant, owner's agent, or any person in immediate control of any building or structure where a violation of this or any other code or ordinance of the City of Euless is found, shall be deemed upon receiving notice of such violation, as the responsible person for causing the correction of such violation."

(22) Section 109.3 is amended to read as follows:

"109.3 Violation penalties. Persons who shall violate a provision of this code or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the fire code official or his designee, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than two thousand ($2,000) dollars. Each violation of the provisions of this

code may be deemed a separate offense and each day that a violation occurs or continues shall be deemed a separate offense."

(23) Section 111.4 is amended to read as follows:

"111.4 Failure to comply: Any person who shall continue any work 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 guilty of a misdemeanor, punishable by a fine of not more than two thousand ($2000.00) dollars".

(24) Section 202 is amended to add or amend the following definitions:

"Addressable Fire Detection System. Any system capable of providing identification of each individual alarm-initiating device. The identification shall be in plain English and as descriptive as possible to specifically identify the location of the device in alarm. The system shall have the capability of alarm verification.

[B] Ambulatory Health Care Facility is amended by adding the following to the existing definition: "This Group may include, but is not limited to the following: Dialysis centers, sedation dentistry, surgery centers, colonic centers, and psychiatry centers."

Analog Addressable Fire Detection System. Any system capable of calculating a change in value by directly measurable quantities (voltage, resistance, etc.) at the sensing point. The physical analog may be conducted at the sensing point or at the main control panel. The system shall be capable of compensating for long-term changes in sensor response while maintaining a constant sensitivity. The compensation shall have a preset point at which a detector maintenance signal shall be transmitted to the control panel. The sensor shall remain capable of detecting and transmitting an alarm while in maintenance alert.

[B] Atrium. An opening connecting three or more stories...{remainder unchanged}

Business license. A Certificate of Occupancy or special permit granted by the City of Euless authorizing a specific business activity at a specific location. This license is valid from the date of issue and does not expire due to age. A Business License becomes invalid if the business name, owner, use of the facility, nature of the business or the business address changes.

False alarm is amended to read as follows: "False alarm is the reporting, signaling or activation by any means of an alarm for which no such fire or emergency actually exists. This includes communicating or circulating a report of a present, past or future bombing, fire, offense, or other emergency that is known to be false or baseless and that would:

1) ordinarily cause action by any official or volunteer agency organized to deal with emergencies; or

2) place a person in fear of imminent serious bodily injury or death; or

3) prevent or interrupt the occupation of a building, room, place of assembly, place to which the public has access or any mode of conveyance."

Fire watch is amended to read as follows: "Fire watch. A temporary measure intended to ensure continuous and systematic surveillance of a building or portion thereof by one or more qualified individuals or standby personnel when required by the fire code official, for the purposes of identifying and controlling fire hazards, detecting early signs of unwanted fire, raising an alarm of fire and notifying the fire department."

High-rise building. A building having floors used for human occupancy located more than 55 feet (16,764 mm) above the lowest level of fire department vehicle access.

International Fire Code shall mean the 2009 International Fire Code and all supplements, attachments and amendments adopted by the City of Euless.

Jurisdiction shall mean the City limits of Euless.

Self service storage facility is real property designed and used for the purpose of renting or leasing individual storage spaces to customers for the purpose of storing and removing personal property on a self-service basis.

Standby personnel. Qualified fire service personnel approved by the fire chief or his designee. When utilized, the number shall be as directed by the fire chief or his designee. Charges for utilization shall be as normally calculated by the jurisdiction."

TCEQ. TCEQ as used in this Code shall refer to the Texas Commission on Environmental Quality.

(25) Section 304.4 is added to read as follows:

"304.4 Trash compactors. Trash compactors which are installed in such a manner that they have direct access to the interior of any structure by means of a door or chute shall comply with the following requirements;

1. No storage is permitted within five feet of any opening to a trash compactor;

2. Any opening into a structure that provides a direct connection between a compactor or dumpster and the building interior must comply with one of the following:

2.1. The opening must be protected by an automatic fire door or fire shutter with a minimum of a forty-five (45) minute fire resistance rating; or

2.2. The opening shall be protected by a sprinkler head located to

provide a water curtain at the opening into the structure and be provided with a self-closing non-combustible door; or

2.3. The chute connecting the dumpster or compactor to the building shall be open on the top and provide enough open space to allow adequate venting of a fire before it can enter the building and shall be provided with a self-closing non-combustible door."

(26) Section 305.5 is added to read as follows:

"305.5 Special provisions for periods of extreme fire danger. A person shall not commit the following acts during a period of time when the City of Euless has issued a burn ban due to weather conditions which create a high risk of outdoor wildfires. A burn ban may be issued by the city manager on the recommendation of the fire chief without formal city council action as approved by Council Resolution 09-1305 or subsequent revisions:

1. A person shall not operate an outdoor cooking appliance other than grills which are fueled by electricity, natural gas, LPG or similar approved compressed gas or charcoal;

2. A person shall not operate any device including grills, cooking pits, outdoor fireplaces, fire rings or similar devices that use an open flame and are capable of releasing sparks or embers into the atmosphere;

3. All outdoor burning is prohibited;

4. The use of grills at city park facilities shall be prohibited or restricted when deemed necessary by the fire code official and appropriate signage is in place;

5. A person shall not conduct cutting or welding operations outside of specific guidelines as may be imposed by the fire marshal, including specific time and weather requirements, special fire watch requirements, pre-wetting requirements and other actions as may be deemed necessary by the fire marshal. A special permit program may be implemented for cutting and welding operations while a burn ban is in effect. A written authorization is required from the fire marshal's office approving the operation and listing any special requirements prior to work commencing.

6. Discarding of cigarettes or other burning or heated materials in a manner that could cause a fire is prohibited.

(27) Section 307.1 is amended to add the following:

"1. The requirements of this section shall extend to any open burning that occurs in the City of Euless. Open burning outside of a container is prohibited in the City, with the exception of trench burns as allowed in 307.6. Burning within the

City is subject to Texas Commission on Environmental Quality guidelines and/or restrictions; State, County or local temporary or permanent bans on open burning; and local written policies as established by the fire code official."

2. Except as otherwise provided for by this code, the unauthorized burning of trash, rubbish, leaves, grass clippings, or other debris is prohibited. Any such fires shall be immediately extinguished.

Exception: Fires that have been approved with a permit issued by the fire code official."

(28) Section 307.4 is amended to revise the introductory paragraph and to add an additional exception to read as follows:

"307.4 Location. The location for open burning shall be not less than three-hundred (300) feet from any structure, and provisions shall be made to prevent the fire from spreading to within three-hundred (300) feet of any structure.

Exceptions:

{Exceptions 1 and 2 unchanged}

3. Cooking pits in compliance with 308.5"

(29) Sections 307.6 and 307.7 are added to read as follows:

"307.6 Trench burns. When permitted by the TCEQ, trench burns shall be conducted in air curtain trenches and in accordance with Section 307.

307.7 Smoke Nuisance. It shall be unlawful for any person to maintain any equipment or conduct any operation, including but not limited to the operation of cooking equipment, cooking fires or outdoor fireplaces, in any manner in which the fire will present an undue hazard to property, or when the smoke or by products of combustion produced by the equipment or operation is of such intensity or duration as to create a nuisance or hazard as determined by the fire code official or his designee."

(30) Section 308.1.4 is amended to read as follows:

"308.1.4 Portable outdoor cooking, cooking equipment and storage. Open flame cooking devices, charcoal burners, gas fired grills, smokers and other open flame devices shall not be operated on any patio, deck, balcony or landing of an apartment building, multifamily structure, hotel or motel or within ten (10) feet of any structural overhang, opening, or outside wall of an apartment building, multifamily structure, hotel or motel. Approved signs shall be posted on the property and must be placed where required by the fire code official to notify tenants of these restrictions.

The use of portable barbecue equipment is prohibited within the indoor quarters of any structure including the garage.

Exceptions:

1. Electric barbecues.

2. Use in one- and two-family dwellings, provided the use is external to the structure."

(31) Section 308.1.6.2 is amended by revising exception # 3 to read:

Exceptions:

{text unchanged}

"3. Torches or flame-producing devices in accordance with Section 308.1.3."

(32) Section 308.3.1 is amended by adding the following:

"11. Candles or similar open flame devices are prohibited in E & I occupancies in any area where children or clients are present.

12. Candles or similar open flame devices, where permitted under this code, must be placed and maintained so as not to present a fire hazard. Candles and similar devices must be under the constant and direct supervision of a competent adult at all times while in use.

13. Open flame devices, including tiki lamps are prohibited within ten (10) feet of any multifamily dwellings consisting of more than four (4) dwelling units."

(33) Section 308.5 is added to read as follows:

"308.5 Cooking grills/pits: All grilling or cooking operations must occur in an approved container or enclosure designed or constructed for that purpose.

Open cooking pits or enclosures, where used, shall be approved and shall be placed a minimum of fifteen (15) feet from any combustible materials, including vegetation, structures, or combustible fencing, be located a safe distance from adjacent property lines, must be constructed in a manner approved by the fire code official, and be designed and maintained in such a manner that the cooking operation does not create a fire or smoke emission hazard to any person or property. Only approved fuels may be used. Pits may not exceed a size of ninety-six (96) cubic feet but may be restricted further at the discretion of the fire code official. When placed on residential property, cooking pits or enclosures are restricted to the rear yards of the property and must be within a fenced enclosure on all properties. The fire department is authorized to require immediate discontinuance of any cooking operation if it is determined the operation is conducted in violation of this code, or if the fire or smoke presents a hazard to adjacent properties. When multiple cooking pits are used, a minimum spacing between pits of fifteen (15) feet must be maintained and the minimum separation distance from combustibles and adjacent

property lines indicated herein shall be increased ten (10) feet for each additional pit added. All distances referenced herein are minimums and may be increased on a case by case basis as deemed necessary by the fire code official."

(34) Section 308.6 is added to read as follows:

"308. 6 Storage of BBQ Equipment. The storage of portable barbecue grills and equipment is limited to exterior storage rooms, exterior closets, or other exterior areas having a one (1) hour wall separating it from other rooms or areas of the structure. Where the provisions of this section can not be met in an existing facility, all barbecue grills and equipment must be stored outside the unit while they are connected to or contain the residue of any fuel source."

(35) Section 308.7 is added to read as follows

"308.7 Supervision. Adult supervision is required at all times while the barbecue is generating open flames or smoldering heat."

(36) Section 308.8 is added to read as follows:

"308.8 Discarding hot materials. The discarding or placement of hot charcoal, wood, coals or ashes into a combustible container or trash receptacle is prohibited. It shall be unlawful to leave hot or smoldering charcoal, wood, coal or ashes, having been used or ignited within a twenty-four (24) hour period prior to being discarded, in an area where re-ignition could expose or endanger property or life."

(37) Section 308.9 is added to read as follows:

"308.9 Management responsibilities. It shall be a violation of this code for any person to own or manage any apartment complex without providing the fire code official, upon request, written proof that each tenant has been advised of the prohibition against the use of barbecue grills and smokers on the patios, balconies, or landings of such structures. Such proof shall consist of a warning document signed by the tenant and kept in the tenants lease file indicating that the tenant is aware of the prohibition. Apartment owners or managers shall place approved signage in approved locations and in common areas advising of the prohibition. Existing apartment complexes shall comply with this provision upon its adoption."

(38) Section 311.5 is amended to add the following at the end of the first paragraph:

"The fire code official is authorized to require marking of any vacant or abandoned buildings or structures determined to be unsafe pursuant to Section 110 of this code relating to structural or interior hazards, shall be marked as required by Section 311.5.1 through 311.5.5."

(39) Section 311.6 is added to read as follows:

"Section 311.6 Removal of burned structure after fire. Whenever any structure in the City is damaged or destroyed by fire, the owner thereof or the person in charge of or

in control of the property shall remove from the premises all refuse, debris, charred lumber, destroyed or damaged portions of the structure and any materials damaged or destroyed by the fire. The owner or person in control of the property shall remove all burned, charred, or damaged materials within ten (10) days after notice to do so."

(40) Section 315.5 is added to read as follows:

"Section 315.5 Removal of debris.

1. Accumulation of trash, debris, clutter and other such conditions that create a risk of fire spread or present a potential hazard to the escape of occupants or to the safe operation of firefighters is prohibited.

2. The owner or any person having control of, or in his possession upon any premises in the city, any substances which are and have been rendered useless by reason of any fire on such premises shall, within forty eight (48) hours after notice by the Fire Department, remove said articles from the premises."

(41) Section 318 - School Fire Safety is added to read as follows:

"318.1- Establishment of requirements providing for safety from the threat of fire in Educational Occupancies.

1. Boilers and other pressurized heating equipment shall be tested as required by the State of Texas and records maintained and posted in E Occupancies.

2. Doors opening into an exit corridor/hall in Group E occupancies shall be kept closed during those times that the room is not occupied regardless of the rating of the corridor/hall. Only approved means may be used to keep a door open.

   Exception: Student restroom doors when approved by the fire code official.

3. All gas fired equipment and related piping and valves shall be tested for leaks by a competent and licensed plumber as recognized by the City of Euless upon request by the fire code official. The facility shall maintain a copy of the test and shall submit a copy of the test results to the fire code official upon request. This provision also extends to commercial day care facilities located within the City.

   Exception: Registered Family Homes."

(42) Section 401.3.2 is revised to read as follows:

"401.3.2 Alarm activations. Upon activation of a fire alarm signal, employees or staff shall immediately notify the fire department. In the event of a fire alarm activation,

the building shall be evacuated, and the fire alarm shall not be reset or silenced until the fire department arrives and investigates. No person may authorize re-entry into a building in which a fire alarm is or has sounded until the re-entry is authorized by the fire department.

Exception: Fire alarms that are activated as part of a scheduled drill may be silenced and reset, and the individual responsible for the drill may authorize re-entry."

(43) Section 401.3.4 is added to read as follows:

"401.3.4 False Alarms and Nuisance Alarms. False alarms and nuisance alarms shall not be given, signaled or transmitted or caused or permitted to be given, signaled or transmitted in any manner."

(44) Section 405.1 is amended to read as follows:

"405.1 General. Emergency evacuation drills complying with the provisions of this section shall be conducted in the occupancies listed in Table 405.2 or when required by the fire code official. Drills shall be designed in cooperation with the local authorities."

(45) Section 501.4 is amended to read as follows:

"501.4 Timing of installation. When fire apparatus access roads or a water supply for fire protection is required to be installed for any structure or development, they shall be installed, tested, and approved prior to the time of which construction has progressed beyond completion of the foundation of any structure unless otherwise approved by the fire code official."

(46) Section 502 is amended by adding the following definition:

"FIRE ZONE. An area marked by fire lane markings or signs that includes a defined area other than a fire lane. A fire zone may include a portion of curbing adjacent to a sprinkler connection, a gate opening across a fire lane, or other clearly defined areas outside of a fire lane. For purposes of Section 503, the terms fire lane, fire zone and fire apparatus access road are interchangeable."

(47) Section 503.1.1 is amended to add the following sentence to the first paragraph:

"Except for single- or two-family residences, the path of measurement shall be along a minimum of a ten foot (10') wide unobstructed pathway around the external walls of the structure."

(48) Section 503.1.4 is added to read as follows:

"503.1.4 Private Subdivisions. The streets in any private subdivision shall be constructed in accordance with the Unified Development Code."

(49) Section 503.2.1 is amended to read as follows:

"503.2.1 Dimensions.

1. Fire apparatus access roads (fire lanes) shall have an unobstructed width of not less than twenty-four (24) feet and an unobstructed vertical clearance of not less than fourteen (14) feet. A minimum inside radius of twenty-eight (28) feet and an outside radius of fifty-two (52) feet is required.

Exceptions:

1. Vertical clearance may be reduced when approved by the fire code official; provided such reduction does not impair access by fire apparatus and approved signs are installed and maintained indicating the established vertical clearance.

2. Existing fire lanes installed prior to the effective date of this ordinance, which were in compliance with the width and radius requirements when built, shall be allowed to continue as a legally existing non-conforming use until they are rebuilt, at which time every reasonable effort shall be made to bring them into compliance with the current regulations.

2. Where fire apparatus access roads abut an interior access self-storage facility an approved parking lane or spaces must be provided to help insure persons utilizing the facility do not park in the fire lanes.

3. The requirements for fire apparatus access roads shall extend to all single-family residences whenever they are located more than one hundred fifty (150) feet off the roadway. The openings of any gates on a residential fire lane shall be maintained at not less than twenty (20) feet and the road surface shall be not less than sixteen (16) feet in width for the first fifty (50) feet of road surface off of the public street, at which point the road surface may be reduced to fourteen (14) feet in width. The fire code official may require minor modifications to the width of the roadway where required by topographical features to help insure emergency access to the property. Existing non-conforming residential gates and driveways, constructed prior to the effective date of this ordinance are considered to be in compliance with this section.

Exception:

The requirements for residential fire apparatus access roads may be waived by the fire code official if the structure requiring the access road is protected by an approved fire sprinkler system."

(50) Section 503.2.2 is amended to read as follows:

"503.2.2 Authority. The fire code official shall have the authority to require an

increase in the minimum access widths and vertical clearances where they are inadequate for fire or rescue operations."

(51) Section 503.2.3 is amended to read as follows:

"503.2.3 Surface. Fire apparatus access roads shall be designed and maintained to support the imposed loads of fire apparatus and shall be surfaced so as to provide all-weather driving capabilities.

"1. Fire apparatus access roads shall be constructed of concrete except as specified in the exceptions herein. The roadway surface shall be constructed of concrete and be engineered to provide all weather driving and maneuvering capability as approved by the City Engineer.

Exception: Alternative materials may be approved for residential fire lanes providing access to a single residence."

2. Fire lanes serving commercial facilities shall be constructed to support a minimum of a sixty thousand (60,000) pound load limit.

3. Whenever existing, non-conforming fire lanes are replaced the fire lane shall be replaced according to current standards. Exceptions may be allowed to the existing width and radius requirements where existing conditions at the site prevent the current standards from being met.

4. Fire lane locations must be approved by the fire code official.

5. Repairs to asphalt fire lanes. Nothing in this section shall be construed to prohibit routine maintenance of existing asphalt fire lanes, including the filling of potholes. However, when any section of asphalt paving fails and must be replaced, the replaced section must be in compliance with 503.2.3.

6. When a fire lane is in need of repair or marking and the owner, after having been notified by certified mail and given sixty (60) calendar days to make corrections, but fails to do so, the City or a contractor hired by the City may enter onto the property for the purpose of making the repairs. The cost of said repairs and a reasonable administrative fee will be billed to the property owner. If the charges are not satisfied within sixty (60) calendar days of billing, a lien may be placed on the property to recover the costs."

(52) Section 503.2.4 is amended to read as follows:

"503.2.4 - Turning radius. The turning radius of a fire apparatus access roadway or access easement shall be set and approved by the fire code official. Unless otherwise stipulated, each access roadway turning radius shall have a minimum inside dimension of twenty eight (28) feet and fifty-two (52) feet outside dimension."

(53) Section 503.2.5 is amended to read as follows:

"Section 503.2.5 - Turnarounds. Any such fire apparatus access roadway or emergency access easement more than one hundred and fifty (150) feet in length shall either be connected to another dedicated public street or emergency access easement, or be provided with a paved turnaround having a turning radius not less than fifty (50) feet.

Exception:

When approved, an alternate design may be substituted for a turnaround. The length of a dead end fire apparatus access road may be extended beyond the length specified herein when site conditions warrant with the approval of the fire code official. The alternate designs shall meet the requirements established by the fire code official."

(54) Section 503.2.6 is amended to read as follows:

"Section 503.2.6 - Bridges. When a bridge is required to be a part of the fire apparatus access roadway or access easement, it shall be constructed and maintained in accordance with nationally recognized standards as approved by the city engineer. The bridge shall be designed for a live load sufficient to carry the imposed load of fire apparatus."

(55) Section 503.2.7 is amended to read as follows:

"Section 503.2.7 - Grade. The gradient for a fire apparatus access roadway or emergency access easement shall not exceed six (6) percent.

Exception:

When terrain conditions exist that impose a roadway grade level greater than six (6) percent the city engineer and the fire code official shall confer to determine the nature of the grade, the responding fire apparatus and if alternative measures can be obtained."

(56) Section 503.3 is amended to read as follows:

"503.3 Marking. Approved striping or, when allowed/required by the fire code official, signs, or both shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs and striping shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility. The owner, occupant and/or person in charge of any premises where a fire lane is required shall be responsible for marking and maintaining the markings and signs identifying the fire lane. In apartment communities, building numbers shall be placed in the fire lanes in an approved manner in compliance with IFC 505.1(c)(3).

1. Striping - Fire apparatus access roads shall be marked by painted lines of

red traffic paint six (6) inches in width to show the boundaries of the lane. The words “NO PARKING - FIRE LANE” or “FIRE LANE - NO PARKING” shall appear in minimum four (4) inch white letters at approximately fifteen (15) foot intervals on the red border markings along both sides of the fire lanes. Where a curb is available, the striping shall be on the entire vertical face of the curb.

Exceptions:

1. Residential fire lanes serving a single residence are not required to be marked in any way.

2. Private streets meeting the design standards of a public street, when authorized by separate ordinance, are exempted from the striping requirements. The exception shall not apply to those portions of said streets that may need to be maintained as fire lanes, fire zones or no parking areas to insure emergency access to the street, fire hydrants, sprinkler connections, or other areas as deemed necessary by the fire code official.

2. Signs, when required, shall read “NO PARKING - FIRE LANE” or “FIRE LANE - NO PARKING” and shall be approximately twelve (12) inches wide and eighteen (18) inches high. Signs shall be white in color with red lettering and borders, using not less than two (2) inch lettering. Signs shall be permanently affixed to a stationary post and the bottom of the sign shall be approximately six feet, six inches (6'6") above finished grade. Signs shall be spaced as determined by the fire code official and shall meet the approval of the fire code official. Signs may be installed on permanent buildings or walls or as approved by the fire code official.”

(57) Section 503.4 is amended to read as follows:

“503.4 Obstruction of fire apparatus access roads. Fire apparatus access roads and fire zones shall not be obstructed in any manner, including the parking of vehicles. The minimum widths and clearances established in Section 503.2.1 and any area marked as a fire lane or fire zone as described in Section 503.3 shall be maintained at all times. Vehicles or obstructions in a fire lane or fire zone may be towed or otherwise removed at the owner’s expense.

1. Where access gates and perimeter fencing are installed, they must be in compliance with this section and Section 503.6. All gate installations must be approved by the fire code official.

2. The manager, owner, or any other person in control of or responsible for any premises on which an obstruction of a fire apparatus access road or fire zone occurs is responsible for such blockage or obstruction. When a motor vehicle or trailer is found to be obstructing a fire apparatus access road or fire zone, the person or company in charge of said vehicle, the

operator of the vehicle or the registered owner of the vehicle may be charged with this offense. The fire chief, any member of the fire prevention bureau, any peace officer or their authorized representatives are authorized to cause access roadways and fire zones to be maintained free and unobstructed at all times by the issuance of citations or the removal or impoundment of said vehicle or both citation and impoundment.

3. When the fire code official determines that an area or zone is necessary to gain immediate access to any fire protection equipment, appliances, vault, connection or hydrant or to gain access for fire department entry to a building for the purpose of fire fighting or life safety, the area shall be marked or posted as approved by the fire code official for such identification."

(58) Section 503.6 is amended to read as follows:

"503.6 Security gates. All gate installations across a required fire apparatus access road or across a private street must conform to the following requirements.

1. Access Gates. Access roadways or access easements that are secured by gates shall comply with the design and specification requirements as established by the fire department. Gate access systems and all components thereof shall be maintained operational at all times. When access gates are out of service, they shall be secured in the open position until repairs are complete.

2. Any electrically or mechanically operated gate restricting access to, or crossing a fire apparatus access road, easement or private street to an occupancy designated as a subdivision, apartment complex, or other location where, in the opinion of the fire code official, an excessive life safety or property hazard situation exists, must meet the gate requirements for a private subdivision/street as provided in section (8) herein.

3. All electrical or mechanically operated gates must be equipped with a Knox System gate access key switch or approved alternative as approved by the Euless Fire Department.

4. All electrical or mechanically operated gates crossing a fire apparatus access road or private street must be equipped with a readily accessible, and well marked emergency release device to allow manual operation of the gate. A walk through gate must be located in an approved location when required and be secured in an approved manner to allow rapid fire department access through said walk through gate. All sliding gates must be equipped with a chain drop or similar approved device secured by a Knox padlock to allow manual operation of the gate.

Exceptions:

The walk through gate may be deleted on a sliding gate equipped with a chain drop feature, or a swing gate which can be disconnected from the automatic opening features from outside the gate, with the approval of the fire code official.

5. Manually operated gates are permitted provided they utilize a Knox padlock to secure the gate. Manually operated gates, and gates using an emergency disconnect, must be operable by one person using a normal amount of exertion.

6. All gates crossing any fire apparatus access road or private street must be well maintained, must be provided with a proper power supply to all electrical and electronic components at all times, and must be in proper operating condition at all times. Gates must be inspected by a qualified gate repairman and repaired when deemed necessary by the fire code official. Any gate crossing a fire apparatus access road or private street that is taken out of service may not be placed back in service until it has been tested and authorized to be placed back in service by the fire code official.

7. The owner or person in control of any property which contains a security gate or barrier is responsible for any damage caused to emergency equipment by said security gates or barriers.

8. Gates installed across fire department access roads providing access to private subdivisions, apartment complexes or other high hazard locations as determined by the fire code official must also comply with the following requirements:

    8.1. All electrical or mechanically operated gates installed or replaced after the effective date of this ordinance must be designed to open fully in the event of a power failure and must remain open until power is restored.

        Exception:

        Gates provided with an approved alternative power source that will operate the gate for a period of twenty-four (24) hours upon loss of primary power when approved by the fire code official.

    8.2. Gate installations must be approved by the fire code official prior to installation. A permit must be obtained prior to a regulated gate being installed, and no gate may be closed until the emergency features of the gate have been tested and accepted by the fire code official.

    8.3. Gates must be equipped with an Opticom, or comparable opening device of a type approved by the fire department, and more than

one device per gate may be required. The device shall be positioned a minimum of ten (10) feet above finished street level. The gate must open a minimum of one (1) foot per second. The gate shall also have a Knox key switch that will open the gate. The location of the Knox switch shall be approved by the fire code official. Gates shall open the full width of the fire lane using a Knox device, ground loop or Opticom like devices.

8.4. Gate designs may incorporate one or two gate sections to meet the required minimum gate width of twenty-four (24) feet. If the entrance incorporates a median or other feature that necessitates a divided gate arrangement, the gate widths may be reduced if approved by the fire code official, but in no case shall any single gate or street pavement be reduced to a clear opening of less than twenty (20) feet. If a gate incorporates an overhead obstruction, said obstruction must be a minimum of fourteen (14) feet above the finished road surface.

8.5 Approach and departure areas on both sides of a gated entrance must provide adequate set backs and proper alignment to allow free and unimpeded passage of emergency vehicles through the entrance area.

8.6 Any electronic gate that has no Opticom like device to exit shall have a sensor in the ground at least six (6) feet back from the gate that will cause the gate to open when a vehicle approaches.

9. All streets, gates and other fire protection features, signs and equipment are subject to periodic inspection by the city and must be repaired immediately if found to be in a condition of disrepair. The city shall have the right to enter the subdivision or other regulated premises and disable, open, or remove any gate, device or other feature that impedes or controls vehicle access at the sole expense of the property owner or homeowners association.

10. The City of Euless, it's officers, representatives and agents, shall not be liable for damage or removal of any gate, barrier, or component thereof which is opened, operated or removed in association with any emergency, inspection, or other official action, nor for any death, injury, or property loss that may occur as a result of a delay in emergency response or any other actions or lack thereof caused by any gate or barrier or the serviceability or lack thereof of said gate, barrier or component.

11. The person or corporation in control of the property is responsible for, and liable for, any violations of this section. This includes but is not limited to, the developer, property owner, homeowner's association and its officers, the occupant of the property, or any others who may own or exercise control over the property.

(59) Section 503.7 is added to read as follows:

"Section 503.7 Access gates on perimeter fencing. Gated communities that have a security fence around the perimeter of the property shall have and be provided with access gates positioned at intervals as may be required by the fire code official. Such gates are to provide police and fire access during an emergency. The gate shall be designed to provide a minimum opening width of forty-eight (48) inches and designed to accommodate a Knox pad lock or approved alternative locking device."

(60) Section 503.8 is added to read as follows:

"503.8 Private subdivisions. When traditional markings of fire lanes are not required on approved private subdivision streets because said streets comply with the design standards of public streets, and an ordinance has been passed permitting the application of traffic laws in said subdivision, the City of Euless, or the Euless Fire Department may still require signs or markings to be placed and maintained prohibiting the stopping, standing, or parking of vehicles along any roadway or portion thereof, where, in the opinion of the city, the parking, stopping, or standing of vehicles may unduly interfere with the free movement of traffic. Said signs will be installed and maintained where designated by the city or fire department and will be installed and maintained by funds provided through the homeowners association. If funds are not available, the city may install or maintain said signs, and bill the homeowners of the subdivision or street for the costs. Signs are official signs belonging to the City of Euless, and no person may tamper with or remove any sign or pole. Vehicles in violation may be fined or towed by any representative of the fire or police departments."

(61) Section 503.9 is added to read as follows:

"503.9 Speed Bumps or Traffic Humps. No person, firm or corporation shall place, construct, erect, or maintain any speed bumps or humps in a marked fire lane, fire zone or emergency access easement without first obtaining a permit from the fire code official. Such speed bump or hump shall be designed, placed and constructed in a manner approved by the fire code official. Speed bumps shall conform to the following requirements. Deviations must be specifically approved in writing by the fire code official.

1. The maximum height of a speed bump is four (4) inches as measured from the surrounding roadway surface.

2. Speed bumps must not exceed a rate of rise of one (1) inch of rise in every three (3) inches of width.

3. Speed bumps must be painted in a contrasting color with the surrounding road surface. Approved paint colors are yellow or white.

4. A permit is required to install and maintain speed bumps.

(62) Section 505.1 is amended to read as follows:

"505.1 Address Identification. New and existing buildings shall have approved address numbers, building numbers or building identification placed in a position that is plainly legible and visible from the street or fire lane and shall be in compliance with this section. All numbers shall contrast with their backgrounds, shall be of an approved and legible font and have a minimum stroke width of 0.5 inches.

1. On commercial buildings, the size of address numbers shall be a minimum of eight (8) inches in height and shall be placed on the building or in a location approved by the fire code official. Suite numbers or other sub addresses shall be a minimum of four (4) inches in height and shall be placed on the front and rear doors of each suite. Building numbers shall be illuminated through an internal or external light source.

2. In multi-tenant occupancies such as apartments, strip centers, etc. address numbers shall be affixed to the gas meters, electric meter bases, and exterior disconnects for utilities in a manner so as to be:

    2.1 clearly visible;

    2.2 of a color that contrasts with the meter base or disconnects;

    2.3 sized sufficiently to be readily apparent, but under no circumstances less than one (1) inch tall;

    2.4 and be maintained in a clear and legible condition at all times.

3. Multifamily, townhouses, condominiums and commercial occupancies shall have street and or building numbers a minimum of eight inches (8") in height. When deemed necessary by the fire code official, the street and or building numbers may be required to be of a larger size for immediate and visible identification.

    3.1 If a structure is more than two hundred (200) feet from a public street, the address shall also appear at the front or main entry of the property at an approved location.

    3.2 Apartment buildings shall have the building address or building number affixed in the fire lane in a location approved by the fire code official. The markings shall be a minimum of a twenty four inch by twelve inch (24" by 12") red rectangle painted on the pavement, in conjunction to the red fire lane markings. The red rectangle shall have white numbers that indicate the street address and/or the building number of the building. Numbers must be in a bold font measuring a minimum of ten (10") inches in height, easily readable from a moving vehicle. This supplemental address block must be installed only on private property near the center of the building. Where any portion of the building borders a fire lane, the numbers

may be required adjacent to those portions of the building abutting the fire lane. Address blocks required herein shall be maintained in an easily readable condition.

3.3 Apartment complexes must have posted an approved sign(s) on each side of the building, clearly visible and readable from the street or fire lane, that contains the building and apartment numbers contained in that structure. Sign locations may be modified by the fire code official for cause when specific conditions make placement of signs on all four sides of the building impractical."

4. Street or Roadway Signs. When required by the fire code official, streets and roads, public or private shall be identified with approved signs.

5. Residential occupancies shall have house numbers a minimum of four (4") inches in height on the street side of the structure or the property owner shall make the address readily visible from the street or access easement, or provide for the address near the street or access easement on a post, monument or mail box in a manner that makes it readily visible for emergency service personnel.

6. Multifamily dwelling units in which a garage is connected directly to a specific living unit shall have the apartment or unit number that the garage serves posted in numbers a minimum of four (4) inches tall above the overhead garage door."

(63) Section 506.1 is amended to add the following sentence:

"This section shall apply to all structures built after the effective date of this ordinance and shall be applied to existing buildings when the fire code official determines that such requirement is necessary to insure adequate access for life-saving or fire-fighting purposes."

(64) Section 507.2.1 is amended to read as follows:

"507.2.1 Private fire service mains. Private fire service mains and appurtenances shall be installed in accordance with NFPA 24. All private fire lines and sprinkler leads shall be installed in accordance with the applicable NFPA standards, the provisions of the International Fire Code and the City of Euless Engineering Standards and shall meet the approval of the fire code official. Permits must be obtained prior to work commencing."

(65) Section 507.4 is amended to read as follows:

"507.4 Water supply test date and information. The water supply test used for hydraulic calculation of fire protection systems shall be conducted in accordance with NFPA 291 "Recommended Practice for Fire Flow Testing and Marking of Hydrants" and within one year of sprinkler plan submittal or as required. The fire code official shall be notified prior to the water supply test. Water supply tests shall

be witnessed by the fire code official, as required. The exact location of the static/residual hydrant and the flow hydrant shall be indicated on the design drawings. All fire protection plan submittals shall be accompanied by a hard copy of the water flow test report, or as approved by the fire code official. The licensed contractor must then design the fire protection system based on this fluctuation information, as per the applicable referenced NFPA standard."

(66) Section 507.5.1 is amended to read as follows:

"507.5.1 Hydrant placement - Fire hydrants shall be placed as follows:

Fire hydrants classified as on site hydrants (located at any location other than a public street) shall be placed as required by the International Fire Code, with guidance provided by Appendix B and C. A fire hydrant shall be installed within one hundred (100) feet of a fire department connection, measured along streets, fire lanes or other approved routes. The fire code official may authorize exceptions to the distance requirements for cause. All fire hydrants must be installed in compliance with the City of Euless Engineering Standards and the provisions of the Unified Development Code. Any distances referenced in this Code shall be measured along approved routes as they would be driven by fire apparatus.

1. Fire hydrants on public or private streets shall be installed as follows:

   1.1 Hydrants serving commercial, industrial, or multifamily developments, as well as hydrants on a court or cul-de-sac shall be placed at intervals not to exceed three hundred (300) feet apart. Distances between hydrants shall be measured along the streets.

   1.2 Hydrants serving single-family residential areas shall be placed at intervals not to exceed five hundred (500) feet apart. Distances between hydrants shall be measured along the street.

   1.3 A hydrant shall be installed at every intersection within a subdivision.

   1.4 Fire hydrants installed along divided roadways shall be alternated so that each adjacent hydrant is located on opposite sides of the divided roadway. In locations where hydrants are only provided on one side of a divided roadway, that portion of the roadway on the side away from the hydrants shall be treated as a non-protected area for purposes of on site hydrant requirements.

2. The use of dead end lines is subject to the approval of the fire code official and the City Engineer. When approved only one fire hydrant

is permitted on a dead end six-inch (6") line not to exceed two hundred and fifty (250) feet in length; or a maximum of two hydrants or one hydrant and a fire sprinkler connection are permitted on a dead end eight-inch (8") line not to exceed five hundred (500) feet in length.

3. All fire hydrants shall be of an approved type and shall be painted red.

4. All fire hydrants shall be placed so the four and one half (4-1/2") inch opening on the hydrant is located between sixteen and three-quarters (16-3/4") inches and twenty-one and one quarter (21-1/4") inches from the finished grade of the property in compliance with the City of Euless engineering standards. Fire hydrants may not be placed closer than thirty-six (36") inches nor more than five (5') feet from the back of the curb or the edge of the roadway. The city may require fittings on the steamer connection that are other than NST discharges.

5. Only National Standard, three way hydrants are approved. Hydrants must contain National Standard threads and must have one four and one half (4-1/2") inch and two (2) - two and one half (2-1/2") inch connections. All hydrants must be of a type approved by the City engineering department."

(67) Section 507.5.4 is amended to read as follows:

"507.5.4 Obstruction. Unobstructed access to fire hydrants shall be maintained at all times. Posts, fences, vehicles, growth, trash, storage and other materials or objects shall not be placed or kept near fire hydrants, fire department inlet connections or fire protection system control valves in a manner that would prevent such equipment or fire hydrants from being immediately discernible. The fire department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants."

(68) Section 509.1.1 is added to read as follows:

"509.1.1 Sign Requirements. Unless more stringent requirements apply, lettering for signs required by this section shall have a minimum height of two (2) inches when located inside a building and four (4) inches when located outside, or as approved by the fire code official. The letters shall be of a color that contrasts with the background."

(69) Section 603.3.2.2 is amended to read as follows:

"603.3.2.2 Restricted use and connection. Tanks installed in accordance with Section 603.3.2 shall be used only to supply fuel oil to fuel-burning equipment installed in accordance with Section 603.3.2.4. Connections between tanks and equipment supplied by such tanks shall be made using closed piping systems."

(70) Section 605.5 is amended to add the following to the end of the first paragraph:

"Only approved extension cords with a minimum rating of thirteen (13) amps and bearing a label with the seal of an approved testing laboratory and the listed rating of the cord may be used."

(71) Section 605.10.1 is amended to read as follows:

"605.10.1 Listed, approved and labeled. Only listed, approved and labeled portable, electric space heaters may be used. Heaters must be in good repair and tip switches, screens and other devices must be in place and operating properly."

(72) Section 605.10.5 is added to read as follows:

"605.10.5 Portable heaters. Portable heaters must be maintained in good operating condition, with all safety screens and other safety features attached and operable. Portable heaters must be listed by a recognized testing laboratory and must be of a design that prevents the unit from being tipped over, or be equipped with a functioning tip switch that will turn the unit off if the unit should fall face down."

(73) Section 607.5 is added to read as follows:

"Section 607.5 General requirements - elevators. Elevators must comply with the following:

1. A minimum of one approved elevator in each structure or elevator bank must be large enough to permit an ambulance cot and two attendants to fit inside the elevator. The total number of elevators required to meet this section is at the discretion of the fire code official.

2. Elevators must be inspected and serviced annually by a company or individual that is trained to perform this service. Documentation of said service must be maintained in the elevator equipment room or other approved location. All safety equipment, including emergency phones and alarms shall be maintained in an operable condition.

(74) Section 610 is added to read as follows:

"SECTION 610
PARAPETS

"610.1 Parapets. When a parapet thirty-six (36) inches tall or greater is included on all sides of a building, an opening thirty-six (36) inches wide extending from a point not greater than twelve (12) inches above the roof deck must be provided. One opening must be provided in every one hundred (100) linear feet or portion thereof of rear wall. Service ladders that are permanently affixed to the building do count towards this requirement. The fire marshal may approve other alternative methods of meeting the intent of this section.

When approved by the fire code official, roof access ladders located interior to the structure may be used to help satisfy the provisions of this section. In order to be approved, the ladders must be directly accessed through an exterior door, located in a fully sprinklered building, and the ladder must be protected completely within a one hour enclosure."

(75) Section 703.1.3.1 is added to read as follows:

"Section 703.1.3.1 Partition and separation walls. Demising walls must separate one occupancy from another. All demising walls separating one occupancy from another must extend from floor to roof deck and be constructed as a listed one-hour rated wall. In multifamily residential structures, a listed one-hour fire resistive construction requirement must be met to separate each individual living unit.

Exception:

1. In fully sprinkled buildings, other than Group R, with the approval of the fire code official.

2. In renovated residential structures being used as an office complex.

3. In shared foyers, this requirement may be modified or waived at entrance doors with the approval of the fire code official.

4. In certain office flex space or similar arrangements where it is impractical to have the walls extend to the deck the fire code official may waive this requirement on a case by case basis."

(76) Section 703.2.3.1 is added to read as follows:

"703.2.3.1 Installation of access doors - When an automatic overhead roll down or sliding door is installed in the interior of a building, a walk through door with the same rating, if applicable, must be installed in the wall adjacent to the overhead or sliding door at a location approved by the fire code official."

(77) Section 807.4.3.2 and Section 807.4.4.2 are amended to read as follows:

"Artwork. Combustible artwork and teaching materials shall be limited on the walls of corridors to not more than twenty (20) percent of the wall area and on the walls of classrooms to not more than fifty (50) percent of each wall area. Such materials shall not be continuous from floor to ceiling or wall to wall.

Curtains, draperies, wall hangings and other decorative material suspended from the walls or ceilings shall meet the flame propagation performance criteria of NFPA 701 in accordance with Section 807 or be noncombustible.

Exception: Corridors protected by an approved automatic sprinkler system installed in accordance with Section 903.3.1.1 shall be limited to fifty (50)

percent of the wall area."

(78) Section 901.2.1 is amended to add the following sentence:

"The letter of installation required by this section shall be on the installers company letterhead and shall contain information as may be required by the fire code official."

(79) Section 901.6 is amended to add the following to the first paragraph:

"Any inspection, service, maintenance or repair to any fire protection system, device or component referenced in this code shall be conducted in accordance with recognized standards and in compliance with the provisions of applicable state and local laws. Service must be conducted by a service technician who is authorized by the State to conduct or perform said inspection or maintenance. A service tag shall be posted upon completion of any maintenance or inspection of any fire protection feature referenced herein. Fire protection systems, devices or component shall be inspected and tested annually, or as required by the fire code official."

(80) Section 901.6.1.1 is added to read as follows:

"Section 901.6.1.1 Testing notification.

901.6.1.1 Standpipe Testing. Building owners/managers must maintain and test standpipe systems as per NFPA 25 requirements. The following additional requirements shall be applied to the testing that is required every five (5) years:

1. The piping between the Fire Department Connection (FDC) and the standpipe shall be hydrostatically tested for all FDC's on any type of standpipe system. Hydrostatic testing shall also be conducted in accordance with NFPA 25 requirements for the different types of standpipe systems.

2. For any manual (dry or wet) standpipe system not having an automatic water supply capable of flowing water through the standpipe, the tester shall connect hose from a fire hydrant or portable pumping system (as approved by the fire code official) to each FDC, and flow water through the standpipe system to the roof outlet to verify that each inlet connection functions properly. There is no required pressure criteria at the outlet. Verify that check valves function properly and that there are no closed control valves on the system.

3. Any pressure relief, reducing, or control valves shall be tested in accordance with the requirements of NFPA 25.

4. If the FDC is not already provided with approved caps, the contractor shall install such caps for all FDC's as required by the fire code official.

5. Upon successful completion of standpipe test, place a blue tag (as per Texas Administrative Code, Fire Sprinkler Rules for Inspection, Test and Maintenance Service (ITM) Tag) at the bottom of each standpipe riser in the building. The tag shall be check-marked as "Fifth Year" for Type of ITM, and the note on the back of the tag shall read "5 Year Standpipe Test" at a minimum.

6. The procedures required by Texas Administrative Code Fire Sprinkler Rules with regard to Yellow Tags and Red Tags or any deficiencies noted during the testing, including the required notification of the local fire code official shall be followed.

7. Additionally, records of the testing shall be maintained by the owner and contractor, if applicable, as required by the State Rules mentioned above and NFPA 25.

8. Standpipe system tests where water will be flowed external to the building shall not be conducted during freezing conditions or during the day prior to expected nighttime freezing conditions.

9. Contact the fire code official for requests to remove existing fire hose from Class II and III standpipe systems where employees are not trained in the utilization of this firefighting equipment. All standpipe hose valves must remain in place and be provided with an approved cap and chain when approval is given to remove hose by the fire code official.

10. An air test may be required prior to a hydrostatic test being performed."

(81) Section 901.6.3 is added to read as follows:

"Section 901.6.3 - Inspection criteria. All fire protection systems and fire extinguishers shall be inspected and tested every twelve (12) months or sooner as required by the fire code official, by a technician properly licensed by the State of Texas. If a system fails to pass a required test, is impaired or is inoperative, the service technician must notify the fire code official's office immediately. This provision extends to all required sprinkler and fire alarm systems in residential occupancies. Maintenance of these systems is the responsibility of the property owner. Where systems are intended to serve more than one property or location, the Home Owners Association and the individual affected property owners are jointly responsible for the inspection and maintenance of the systems and components including, but not limited to, fire alarm systems and components thereof, sprinkler components, underground fire lines, FDC's, vaults or similar items. Proof of compliance must be provided to the fire code official within thirty (30) days of a written request for such verification."

(82) Section 901.7 is amended to read as follows:

"901.7 Systems out of service. Where a required fire protection system is out of service or in the event of an excessive number of activations, the fire department and the fire code official shall be notified immediately and, where required by the fire code official, the building shall either be evacuated or an approved fire watch shall be provided for all occupants left unprotected by the shut down until the fire protection system has been returned to service." {remainder unchanged}

(83) In Section 902.1, under "Standpipes, Types of" definition, amend "Manual dry" by adding a sentence to read as follows:

"The system must be supervised as specified in Section 905.2."

(84) Section 903.1.2 is added to read as follows:

"903.1.2 Residential systems. When permitted in R occupancies other than single- or two-family dwellings, a 13R system must provide full coverage of the attic, all enclosures, and protect the structure to the same extent of coverage as would be required utilizing an NFPA 13 system design unless otherwise approved by the fire code official. When approved by the fire code official, a single riser or gang riser arrangement under the control of the HOA is permitted in townhomes. For purposes of this section, a single-family or two-family dwelling is defined as no more than two contiguous dwelling units with a minimum of five (5) feet of physical separation between separate buildings. Residential units in a grouping of three or more regardless of fire walls or other separations are considered to be multifamily units and are regulated under the sprinkler provisions of this code.

When approved by the fire code official attic fire sprinkler protection is not required in town homes where the units do not exceed thirty (30) feet to the top of the roof ridge and the total square footage footprint of the building does not exceed ten thousand (10,000) square feet.

(85) Section 903.1.3 is added to read as follows:

903.1.3 Sprinkler Piping. When metal piping is used, a minimum of schedule 40 piping is required on any dry pipe and a minimum of Schedule 10 is required on any wet pipe sprinkler system installed in the city."

(86) Section 903.1.4 is added to read as follows:

"903.1.4 Existing structures. Existing buildings are required to install an automatic sprinkler system under the following circumstances:

1. When a building that exceeds the limits established in Section 903.2.11.3 or Section 903.2.11.9 experiences a change in occupancy classification use that results in a more hazardous use or a use that would require a sprinkler system under another provision of this code; or

2. When the square footage or height of an existing building is increased to

exceed the limits established in Section 903.2.11.3 or Section 903.2.11.9, the entire building must be sprinkled; or

3. All R-1 Occupancies (hotels/motels) in the City must be sprinkled by February 1, 2021; or

4. Any occupancy which derives seventy-five percent (75%) or more of its revenue from the sale of alcohol for on-premise consumption must be sprinkled by February 1, 2021.

Exceptions:

1. The fire code official is authorized to provide a reasonable time following occupancy to permit the installation of the sprinkler system in existing occupancies."

(87) Section 903.2 is amended by adding the following at the end of the first paragraph:

"When approved by the fire code official, automatic sprinklers shall not be installed in elevator machine rooms, elevator machine spaces, and elevator hoist ways. Storage shall not be allowed within the elevator machine room. Signage shall be provided at the entry doors to the elevator machine room indicating "ELEVATOR MACHINERY - NO STORAGE ALLOWED. Alternative methods of protection may be required."

(88) Section 903.2 is amended to add the following to the exception:

"...in accordance with Section 907.2, are provided with an approved alternative fire suppression system if required by the fire code official, and are separated..."

(89) Section 903.2.1.2 is amended to read as follows:

"903.2.1.2 Group A-2. An automatic sprinkler system shall be provided for Group A-2 occupancies where one of the following conditions exists:

1. The fire area exceeds 5,000 square feet.

2. The fire area has an occupant load of 300 or more.

3. The fire area is located on a floor other than a level of exit discharge serving such occupancies.

(90) Section 903.2.7 is amended to delete item 4.

(91) Section 903.2.8 is amended to add the following:

"... including multifamily structures, hotels, motels, triplexes, apartments, condominiums or townhouses containing three (3) or more dwelling units, regardless of square footage and regardless of any fire rated walls.

(92) Section 903.2.9.3 is added to read as follows:

"903.2.9.3 Self-service storage facility. An automatic sprinkler system shall be installed throughout all self-service storage facilities.

Exception. One-story self-service storage facilities that have no interior corridors, with a one-hour fire barrier separation wall installed between every storage compartment.

(93) Section 903.2.11.3 is amended to read as follows:

"903.2.11.3 Buildings over 35 feet in height. An automatic sprinkler system shall be installed throughout buildings with a floor level, (other than a penthouse in compliance with Section 1509 of the International Building Code) that is located thirty five (35) feet or more above the lowest level of fire department vehicle access.

Exception: Open parking structures in compliance with Section 406.3 of the International Building Code."

(94) Section 903.2.11.7 is added to read as follows:

"903.2.11.7 High-piled combustible storage. For any building with a clear height exceeding twelve (12) feet see Chapter 23 to determine if those provisions apply."

(95) Section 903.2.11.8 is added to read as follows:

"903.2.11.8 Spray booths and rooms. New and existing spray booths and spraying rooms shall be protected by an approved automatic fire-extinguishing system in compliance with Section 1504."

(96) Section 903.2.11.9 is added to read as follows:

"903.2.11.9 Buildings over 6,000 square feet: An automatic sprinkler system shall be installed throughout all buildings with a building area over six thousand (6,000) square feet. For the purposes of this provision, fire walls shall not define separate buildings. If a conflict exists among the sprinkler requirements of this code, the more restrictive provision shall apply.

Exception:

1. Open parking structures in compliance with Section 406.3 of the International Building Code when approved by the fire code official."

(97) Section 903.3 is amended to add the following:

1. A company with a Texas State fire sprinkler license shall install underground fire sprinkler mains. The company installing the underground is responsible for that portion of piping from the tap to the floor flange in the riser room, unless otherwise approved by the fire code official. The pipe shall have six (6) inches

of sand on all sides and twelve (12) inches on top. Underground installations must be approved by the fire code official.

2. If a fire sprinkler vault is installed for multifamily buildings, a manifold may be used to connect three (3), four (4) inch lines to serve three (3) separate buildings with the approval of the fire code official, and proven hydraulically.

3. Riser closets shall be labeled “Fire Sprinkler Riser Room.

4. Multifamily buildings shall have the inspector test valve at the remote end of the system.

5. Piping thickness shall be in compliance with 903.1.3.

6. Floor control valves must be installed when required by Section 903.4.3.”

(98) Section 903.3.1.1.1 is amended to read as follows:

“903.3.1.1.1 Exempt locations. When approved by the fire code official, sprinklers shall not be required in the following rooms or areas where such rooms or areas are protected with an approved alternative fire suppression system or alternative fire protection methods, and an automatic fire detection system in ... {bulk of section unchanged}... because it is damp, of fire-resistance-rated construction or contains electrical equipment.

1. Any room where the application of water, or flame and water, constitutes a serious life or fire hazard.

2. Any room or space where sprinklers are considered undesirable because of the nature of the contents, when approved by the fire code official.

3. Generator and transformer rooms, under the direct control of a public utility, separated from the remainder of the building by walls and floor/ceiling or roof/ceiling assemblies having a fire-resistance rating of not less than two (2) hours.

4. Elevator machine room, machinery spaces, and hoist ways.”

(99) Section 903.3.1.2 is amended to add the following paragraph:

“Sprinklers installed under this provision must provide full coverage of the attic, all enclosures, and protect the structure to the same extent of coverage as would be required utilizing a NFPA 13 system design unless specifically excluded under 903.1.2. However, for the purposes of exceptions or reductions permitted by other requirements of this code, an NFPA 13-R system may not be used for any trade off.”

(100) Section 903.3.1.2.1 is amended to add the following exception:

“Exception- This section shall not apply to townhomes when the balconies, decks or

other exterior areas are isolated and protected utilizing a construction method approved by the fire code official designed to reasonably eliminate the risk of an exterior fire extending into any void spaces."

(101) Section 903.3.1.3 is amended to read as follows:

"903.3.1.3 NFPA 13D sprinkler systems. Automatic sprinkler systems installed in one- and two-family dwellings shall be installed throughout in accordance with NFPA 13D or in accordance with state law or IRC 2904."

(102) Section 903.3.5 is amended to add a second paragraph to read as follows:

"Water supply as required for such systems shall be provided in conformance with the supply requirements of the respective standards; however, every fire protection system shall be designed with a ten (10) psi safety factor."

(103) Section 903.3.7 is amended to add the following:

1. A four-inch (4") Storz or approved comparable FDC connection must be used when required by the fire code official. These connections must be installed at approximately a forty-five (45) degree down angle and designed to minimize the risk of foreign objects being placed in the pipe opening. Special provisions may be permitted for residential FDC connections as specified in (h).

2. The connection shall be minimum forty-two (42) inches above finished grade and piping shall be painted red unless otherwise approved by the fire code official.

3. Vehicle impact protection consisting of four (4) inch iron, concrete filled bollards must be installed when and where deemed necessary by the fire code official to protect the FDC, and the bollards must be painted yellow.

4. Installations must be of a design approved by the fire code official.

5. If a fire department connection serves more than one building it shall have a metal sign of sufficient size to allow for "BLDG" to be stenciled or painted on the top of the plate in two (2) inch stroke letters and the building numbers to follow horizontally in three (3) inch numbers. The lettering shall be white and the background red. The plate shall be attached to the fire department connection pipe and face the road or fire lane.

6. Locking Knox caps shall be installed on all new installations, as replacements for lost or damaged caps on existing locations and when and where deemed necessary by the fire code official to address tampering problems at existing facilities.

7. When an FDC cap is found to be off or missing, the fire code official may require the FDC underground to be back flushed to insure no debris is lodged in the piping.

8. The FDC in a townhome or similar connected single-family residential housing unit may utilize an approved two and one half (2-1/2) inch NST connection when the flow rate for the system is shown to be supported by a two and one half (2-1/2) inch inlet and when approved by the fire code official. Single-family residential FDC's may utilize any appropriate sized FDC as approved by the fire code official when an FDC is required. "

(104) Section 903.4 is amended to add a second paragraph before the exceptions to read as follows:

"Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than forty-five (45) seconds unless approved by the fire code official. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering."

(105) Section 903.4.2 is amended to add the following paragraph:

"A minimum of one (1) a/v device is required inside the building and/or tenant space in a location that is normally occupied. The alarm device required on the exterior of the building shall be a weatherproof horn/strobe notification appliance with a minimum seventy-five (75) candela strobe rating, installed at an approved location."

(106) Section 903.4.3 is amended to read as follows:

"903.4.3 Floor Control Valves. Individual floor control valves shall be required in any building containing three (3) or more stories. When required, the valves shall be located within a rated stairway or as approved by the fire code official. The floor control valve shall have a control valve, flow switch, test and drain.

Exception: Buildings that do not meet the definition of a high rise in the International Fire Code when the valves are determined to not be necessary due to the building size or configuration by the fire code official."

(107) Section 905.1 is amended to add the following paragraph:

"All standpipes required by this code shall be designed as a Class I standpipe. The design shall incorporate a two and one half-inch (2-1/2") valve, with a two and one half-inch (2-1/2") by one and one half inch (1-1/2"), National Standard Thread adapter, capped."

(108) Section 905.2 is amended to read as follows:

"905.2 Installation standards. Standpipe systems shall be installed in accordance with this section and NFPA 14. Manual dry standpipe systems shall be supervised with a minimum of ten (10) psig and a maximum of forty (40) psig air pressure with a high/low alarm."

(109) Section 905.3.8 is added to read as follows:

"905.3.8 Building area. When required by the code official, in buildings exceeding ten thousand (10,000) square feet in area per story, Class I automatic wet or manual wet standpipes shall be provided where any portion of the building's interior area is more than two hundred (200) feet of travel, vertically and horizontally, from the nearest point of fire department vehicle access.

Exception: Automatic dry and semi-automatic dry standpipes are allowed as provided for in NFPA 14."

(110) Section 905.3.9 is added to read as follows:

"905.3.9 High density area. In any structure in which fire department access is limited due to building layout, density of construction, restricted access or other site or building features that may impede fire department access, approved standpipes shall be installed as required by the fire code official."

(111) Section 905.4, item #5 is amended to read as follows:

"5. Where the roof has a slope less than four (4) units vertical in twelve (12) units horizontal (33.3 percent slope), each standpipe shall be provided with a two-way hose connection located either ..." {remainder of paragraph unchanged}...

(112) Section 905.4 is amended by adding the following item #7:

"7. When required by this Chapter, standpipe connections shall be placed as required by the fire code official."

(113) Section 905.9 is amended by adding a second paragraph after the exception to read as follows:

"Sprinkler and standpipe system water-flow detectors shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than forty-five (45) seconds unless approved by the fire code official. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a supervisory signal at the central station upon tampering."

(114) Section 906.1 is amended to read as follows:

"906.1 Where required. The minimum acceptable fire extinguisher size shall be a 2A:10B:C extinguisher. While general guidance on fire extinguisher placement is covered in this section, the fire code official may require additional fire extinguishers. This includes buildings under construction when required by the fire code official.

1. In all new and existing occupancies.

{Remainder of section is unchanged}

Exception:

1. One- and two-family dwellings."

(115) Section 907.1. 2 is amended by adding the following:

"14. Drawings must be in a minimum of 1/8 inch scale."

(116) Section 907.1.4 is added to read as follows:

"907.1.4 General design. All fire alarm systems shall be designed in accordance with the provisions of this code and NFPA 72 (National Fire Alarm Code).

1. A zone map or other approved method of identifying clearly the device in alarm and the zone or address must be posted at the control panel or be an integral part of the alarm panel, and must be submitted with the fire alarm plan submittal. The minimum size of the zone map is ten inches by fourteen inches (10" x 14").

2. All alarm systems new or replacement shall be addressable. Alarm systems serving twenty (20) or more initiating devices shall be analog addressable fire detection systems.

Exception:

1. Existing systems need not comply unless any single building remodel or expansion initiated after the effective date of this code, as adopted, exceeds thirty percent (30%) of the building. If cumulative building remodels or expansions exceed fifty percent (50%) of the total building area within any two (2) year period, the entire buildings fire alarm system must comply with this section within eighteen (18) months of permit application.

2. When approved by the fire code official, small systems designed to monitor fire sprinklers for flow and tamper may be non-addressable.

3. Sprinkler and standpipe system water-flow detectors, when required by the fire code official, shall be provided for each floor tap to the sprinkler system and shall cause an alarm upon detection of water flow for more than forty-five (45) seconds unless approved by the code official. All control valves in the sprinkler and standpipe systems except for fire department hose connection valves shall be electrically supervised to initiate a trouble signal at the central control station upon tampering."

(117) Sections 907.1.5, 907.1.6, 907.1.7, 907.1.8, 907.1.9, 907.1.10 and 907.1.11 are

added to read as follows:

"907.1.5 Operation of fire alarm panels. The fire alarm panel shall not require a tool, key, enable key, code or special knowledge to operate.

907.1.6 Panel location. The location of the fire alarm panel must be near the main entrance at a location approved by the fire code official, or an approved remote annunciator must be placed at an approved location.

907.1.7 Multiple panels. When multiple buildings exist on one property and have fire alarm panels each building's fire alarm panel shall report back to a main fire alarm panel, at a location approved by the fire code official, unless an alternative design is approved by the fire code official.

907.1.8 Water flow alarms. An alarm initiated by a water flow device shall not be capable of being reset while a water flow condition is occurring.

907.1.9 External notification device. External weatherproof audio/ visual device(s) shall be installed at a location approved by the fire code official. Approved signage may be required.

907.1.10 Wording. All visible and audible notification devices shall be of a type approved by the fire code official and shall have the word "Fire" on the device when received from the manufacturer or placed in an approved manner on the device.

907.1.11 Duct detectors. A remote indicator is required on the ceiling or other approved location where a duct detector is concealed, such as above a ceiling, or when required by the fire code official. All remote indicators shall be labeled with the zone or address of the duct detector."

(118) Section 907.2 is amended to add the following:

"1. Regardless of other provisions of this code, all fire sprinkler systems, with the exception of systems protecting a single-family or duplex residential structure must be monitored for tamper and flow at an approved monitoring station. Alarm systems monitoring sprinkler systems must consist of a minimum of a water flow device, tamper switches on each water control valve, a pull station, a smoke or heat detector positioned near the panel, an exterior and an interior approved audio-visual device as needed to call attention to an alarm condition at the premises, including each lease space if the building is a multi-tenant occupancy. It is not the intent of this section to imply the audio visual placement must comply with NFPA 72 when the only requirement for A/V devices is caused by this section.

2. An approved smoke detection system is required in any corridor or common atmosphere within the corridor if any of the corridor provisions of Table 1018.1 referencing a rated corridor of less than one hour is used. The actuation of any detector shall activate alarms audible in all areas served by the corridor.

3. Elevator recall must include smoke detectors on each level, smoke detection in elevator equipment rooms, and at the top of the elevator shaft unless otherwise approved by the fire code official. “

(119) Section 907.2.1 is amended to read as follows:

“907.2.1 Group A. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in Group A occupancies having an occupant load of three hundred (300) or more persons or more than one hundred (100) persons above or below the lowest level of exit discharge. Portions of Group E occupancies occupied for assembly purposes shall be provided with a fire alarm system as required for the Group E occupancy. Activation of fire alarm notification appliances shall:

1. Cause illumination of the means of egress with light of not less than one (1) footcandle (11 lux) at the walking surface level, and

2. Stop any conflicting or confusing sounds and visual distractions.”

(120) Section 907.2.3 is amended to read as follows:

“907.2.3 Group E. A manual fire alarm system that activates the occupant notification system in accordance with Section 907.6 shall be installed in Group E educational occupancies. When automatic sprinkler systems or smoke detectors are installed, such systems or detectors shall be connected to the building fire alarm system. An approved smoke detection system shall be installed in Group E day care occupancies. When required by the fire code official, all buildings, whether portable buildings or the main building, will be considered one building for alarm occupant load consideration and interconnection of alarm systems.

All exceptions under 907.2.3 are deleted except as follows:

Exceptions:

1. Residential In-Home day care with not more than twelve (12) children may use interconnected single station smoke alarms in all habitable rooms. (For child care of more than five (5) children two and one-half (2 1/2) or less years of age, see Section 907.2.6)”

(121) Section 907.2.3 is amended to add the following paragraph:

“The provisions of Group E occupancies shall extend to Group E - Day Care facilities with the following modifications:

1. Smoke detection is required in each room that is or may be used for child care purposes.

2. A manual pull station is required at a continually attended location where it is readily available to the staff.

3. Kitchen fire suppression systems shall be interconnected to and activate the fire alarm system."

(122) Section 907.2.6 is amended to add the following at the end of the first paragraph.

"In I-4 occupancies, fire alarm systems must be installed in accordance with 907.2.3 regardless of the age of the clients."

(123) Section 907.2.11.2 is amended to add the following:

4. Each residential property used for rental purposes, regardless of if it is a single-family or multifamily dwelling, shall be equipped with operating smoke detectors in accordance with IRC R314 and the IFC. The landlord is responsible for the installation and maintenance of the detector(s). If the lease agreement specifies that the batteries in the detector are the responsibility of the tenant, the landlord is still responsible for ensuring that all detectors are working properly, including replacement of batteries as needed. However, any tenant or other person that renders a smoke detector inoperable by removing a battery or who fails to replace a weak battery or who removes or otherwise renders a smoke detector inoperable in any way is in violation of this section."

(124) Section 907.2.13 is amended to read as follows:

"907.2.13 High-rise buildings. Buildings having floors used for human occupancy located more than fifty-five (55) feet above the ... {remainder of paragraph to remain unchanged} ... with Section 907.2.12.2"

(125) Section 907.2.13, exception #3 is amended to read as follows:

"3. Buildings with an occupancy in Group A-5 in accordance with Section 303.1 of the International Building Code, when used for open air seating; however, this exception does not apply to accessory uses including but not limited to sky boxes, restaurants and similarly enclosed areas."

(126) Section 907.5.1 is amended to read as follows:

"907.5.1 Protection of fire alarm control unit. A single smoke detector shall be provided at the location of each fire alarm control unit, notification appliance circuit extenders and supervisory station transmitting equipment. Where ambient conditions prohibit installation of smoke detectors, an approved heat detector may be permitted to substitute with the approval of the fire code official. When the building is fully sprinkled, if ambient conditions would require a heat detector in lieu of a smoke detector at a required location, the fire code official may waive the heat detector requirement."

(127) Section 907.5.2 is amended to add the following:

"1. Manual alarm actuating devices shall be an approved double action type."

(128) Section 907. 5.2.4 is amended to read as follows:

"907.5.2.4 Signs Where fire alarm systems are not monitored by a supervising station, an approved permanent sign on a red laminated plate with white letters, with a minimum of one-fourth (1/4) inch stroke shall be installed adjacent to each manual fire alarm box and shall read as follows:

Local Alarm Only
Must Dial 9-1-1 To
Report Fire Emergency"

When required by the fire code official, signs stating "If alarm sounds call 9-1-1" must be installed adjacent to outside alarm devices."

(129) Section 907.7.2 is amended to add the following paragraph:

"Each fire alarm panel and power supply panel shall have an added surge protector installed in addition to the surge protector which is built into the panel. The secondary surge protection device must be installed in such a manner that it is isolated a minimum of two feet from the panel as measured along the route of electrical travel. If data lines run between separate buildings data line surge/spike protection is required on each data line where the line enters and/or exits each building."

(130) Section 907.7.3.2 is amended to read as follows:

"907.7.3.2 High rise buildings. In buildings that are more than three (3) stories tall, a separate..." {remainder of section unchanged}...

(131) Section 907.7.5.2 added to read as follows:

"907.7.5.2 Communication Requirements. All alarm systems, new or replacement, shall transmit general alarm, water flow, supervisory and trouble signals, as well as any specialty signals required by the fire code official, descriptively to the approved central station, remote supervisory station or proprietary supervising station as defined in NFPA 72."

(132) Section 907.7.6 is added to read as follows:

"907.7.6 Installation. All fire alarm systems shall be installed in such a manner that the failure of any single alarm-actuating or alarm-indicating device will not interfere with the normal operation of any other such devices. All systems shall be Class "A" wired with a minimum of six (6) feet of separation between supply and return loops. All underground wiring shall use listed waterproof fire alarm wire and be installed in conduit. All systems and components shall be installed in accordance with NFPA 72."

(133) Section 907.10 is added to read as follows:

"907.10 False signals - All fire alarm systems and components must be maintained in such a manner as to prevent the excessive or recurring transmission of false signals."

(134) Section 907.11 is added to read as follows:

"907.11 Response to Alarms - The person in control of any property served by a fire alarm system must have an employee available to arrive at the scene of an alarm within thirty (30) minutes of being notified."

(135) Section 910.1 is amended by revising Exception #2 to read as follows:

"2. Where areas of buildings are equipped with early suppression fast-response (ESFR) sprinklers, only manual smoke and heat vents shall be required within these areas. Automatic smoke and heat vents are prohibited."

(136) Section 910.2.3 is added to read as follows:

"910.2.3 Exit access travel distance increase. Buildings and portions thereof used as a Group F-1 or S-1 occupancy where the maximum exit access travel distance is increased in accordance with Section 1016.3."

(137) Section 910.3.2.2 is amended by adding a second paragraph to read as follows:

"The automatic operating mechanism of the smoke and heat vents shall operate at a temperature rating at least one hundred (100) degrees Fahrenheit greater than the temperature rating of the sprinklers installed."

(138) Section 912.1 is amended to add the following:

"...and the requirements found in Section 903.3.7."

(139) Section 912.2.3 is added to read as follows:

"912.2.3 Hydrant distance. An approved fire hydrant shall be located within 100 feet of the fire department connection as the fire hose lays.

Exception: The distance described herein may be increased by the fire code official for cause."

(140) Section 912.5 is amended to add the following:

"Approved back flow devices shall be installed on all new sprinkler systems. All back flow devices shall be an Ames 3000 or equivalent approved by the fire code official and shall be tested annually, with a report submitted to the fire code official. If the fire sprinkler main serves a fire sprinkler system with chemical additives a reduced pressure detector assembly is required. If the device is located outside of the building it shall be in a vault approved by the fire code official. The vault shall be at

least seven (7) feet by five (5) feet in size with a finished floor. It shall have a spring assisted lid with a hold open latch measuring at least thirty-six (36) inches by thirty-six (36) inches. A key to the vault shall be provided to the fire department. The vault shall have a ladder inside, a one-foot by one-foot (1'x1') drain in the bottom with twelve (12) inches of gravel under the entire vault and a shelf near the top to hold an electronic transmitter. The floor shall be a minimum of six (6) inches below the bottom of the back flow device. If valves are in the vault they shall have a chain and Knox padlock to lock them in the open position. The fire department connection, with an automatic ball drip, shall come directly out of the top of the vault, unless approved otherwise by the fire code official. The vault shall be protected by four-inch (4") metal concrete filled bollards, painted yellow, at locations approved by the fire code official.

When approved by the fire code official, the requirement for a vault may be waived provided:

1. The fire line is not more than two hundred (200) feet in length as measured from the point of connection to the city main to the sprinkler riser;

2. An approved blow off valve is installed when required by the city near the end of the line at an approved location.

3. The riser room is large enough to accommodate the riser and the back flow device, and still allow room to test and remove these items.

4. The required transmitter device is mounted at a location and manner approved by the city."

(141) Section 913.1 is amended by adding a second paragraph and exception to read as follows:

When located on the ground level at an exterior wall, the fire pump room shall be provided with an exterior fire department access door that is not less than 3 ft. in width and 6 ft. - 8 in. in height, regardless of any interior doors that are provided. A key box shall be provided at this door, as required by Section 506.1.

Exception: When it is necessary to locate the fire pump room on other levels or not at an exterior wall, the corridor leading to the fire pump room access from the exterior of the building shall be provided with equivalent fire resistance as that required for the pump room, or as approved by the fire code official. Access keys shall be provided in the key box as required by Section 506.1.

(142) Section 913.4 is amended by adding a second paragraph to read as follows:

"The fire-pump system shall also be supervised for "loss of power", "phase reversal" and "pump running" conditions by supervisory signal on distinct circuits."

(143) Section 1004.1.1 is amended by deleting the exception.

(144) Section 1004.2 is amended to read as follows:

"1004.2 Increased occupant load - When approved by the code official, the occupant load permitted in any building.... {Remainder of section is unchanged}."

(145) Section 1006.3.1 is added to read as follows:

"1006.3.1 Emergency lights - Emergency lights operating off of a secondary power source must be provided. Lighting may be required in areas or rooms when, in the opinion of the fire code official the additional lighting is necessary to enable occupants to safely exit the area in the event of a power failure."

(146) Section 1008.1 is amended to add the following to the end of the first paragraph.

"Where additional doors are provided in a structure or room that could be mistaken for exit doors, the fire code official may require the doors to be clearly marked as non exit doors."

(147) Section 1008.1.4.4 amended by revising criteria #3 and adding criteria #7 and #8 to read as follows:

"3. A push to exit button is not permitted on an exit door which is installed after the effective date of this code. A touch bar or other approved method to provide a direct interruption of power to the lock is required. "

"7. If a full building smoke detection system is not provided, approved smoke detectors shall be provided on both the access and egress sides of doors and at a location approved by the fire code official in accordance with NFPA 72. Actuation of a smoke detector shall automatically unlock the door."

"8. When required by the fire code official, a Knox key switch or an approved toggle switch located inside a Knox key box must be installed at an approved location to permit an emergency override of any magnetic locking device system."

(148) Section 1008.1.9.3.1 is amended to read as follows:

"1008.1.9.3, Locks and Latches. Locks and Latches shall ... (text unchanged) ... any of the following exists:

3.1 Where egress doors are used in pairs and positive latching is required, approved automatic flush bolts shall be permitted, provided that both leaves achieve positive latching regardless of the closing sequence and the door leaf having the automatic flush bolts has no doorknobs or surface mounted hardware."

(149) Section 1008.1.9.4 is amended by adding exceptions 3 and 4 to read as follows:

"Exceptions:

3. Where a pair of doors serves an occupant load of less than 50 persons in a Group B, F, M or S occupancy, ... {remainder of section unchanged}.

4. Where a pair of doors serves a Group B, F, M or S occupancy. (remainder text unchanged)"

(150) Section 1008.1.9.8 is amended to read as follows:

"1008.1.9.8 Electromagnetically locked egress doors. Doors in the means of egress that are not otherwise required to have panic hardware in buildings with an occupancy in Group A, B, E, I-1, I-2, M, R-1 or R-2 and doors to tenant spaces in Group A, B, E, I-1, M, R-1 or R-2 shall be permitted to be electromagnetically locked if equipped with listing hardware that incorporates a built-in switch and meet the requirements below: (remaining text unchanged)."

(151) Section 1008.1.9.10 is amended by revising exception #3 to read as follows:

"3. In stairways serving not more than four (4) stories, fifty percent (50%) of the doors are permitted to be locked from the side opposite the egress side, provided they are operable from the egress side...{remainder of paragraph unchanged}. The use of this exception is permitted only upon approval of the fire code official."

(152) Section 1011.1.1 is added to read as follows:

"Where exit signs are required by section 1011.1, additional approved exit signs that are internally or externally illuminated, photo-luminescent or self-luminous shall be required in all corridors serving guestrooms of R-1 and R-2 occupancies.

The bottom of each sign shall be placed not less than six (6) inches nor more than eight (8) inches above the floor level and shall indicate the path of exit travel. For exit and exit access doors, the sign shall be on the door or adjacent to the door with the closest edge of the sign within four (4) inches of the door frame."

(153) Section 1016.3 is added to read as follows:

"1016.3 Roof vent increase. In buildings that are one (1) story in height, equipped with automatic heat and smoke roof vents complying with Section 910 and equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1, the maximum exit access travel distance shall be 400 feet (122 m) for occupancies in Group F-1 or S-1."

(154) Section 1018.1 is amended to add the following to the end of the first paragraph:

"An approved smoke detection system is required in any corridor or common atmosphere within the corridor if any of the corridor provisions of Table 1018.1 referencing a rated corridor of less than one hour is used. The actuation of any

detector shall activate alarms audible in all areas served by the corridor."

(155) Section 1022.1 is amended by adding exceptions 8 and 9 to read as follows:

"8. In other than occupancy Groups H and I, a maximum of fifty (50) percent of egress stairways serving one (1) adjacent floor are not required to be enclosed, provided at least two (2) means of egress are provided from both floors served by the unenclosed stairways. Any two such interconnected floors shall not be open to other floors.

9. In other than occupancy Groups H and I, interior egress stairways serving only the first and second stories of a building equipped throughout with an automatic sprinkler system in accordance with Section 903.3.1.1 are not required to be enclosed, provided at least two (2) means of egress are provided from both floors served by the unenclosed stairways. Such interconnected stories shall not be open to other stories."

(156) Section 1022.9 is amended to read as follows:

"1022.9 Smoke proof enclosures and pressurized stairways. In buildings required to comply with Section 403 or 405 of the IBC, each of the exit enclosures serving a story with a floor surface located more than fifty-five (55) feet above the lowest level of fire ..."{remainder of section unchanged}

(157) Section 1024.1 is amended to read as follows:

"1024.1; General. Approved luminous egress path markings delineating the exit path shall be provided in buildings of Groups A, B, E, I, M and R-1 having occupied floors located more than fifty five (55) feet above the lowest level of fire department vehicle access in accordance with . . ." {remaining text unchanged}.

(158) Section 1026.6 is amended by revising Exception #4 to read as follows:

"Exception:

4. Separation from the open-ended corridors of the building is not required for exterior ramps or stairways connected to open ended corridors provided that Items 4.1 through 4.4 are met." {remainder is unchanged}

(159) Section 1030.2 is amended to read as follows:

"1030.2 Reliability. Required exit accesses, exits or exit discharges shall be continuously maintained free from obstructions or impediments to full instant use in the event of fire or other emergency. Security devices affecting means of egress shall be subject to approval of the fire code official."

(160) Section 1030.3 is amended to add the following paragraph:

"Motorcycles, fueled equipment, barbecue grills or other fueled appliances are

prohibited in breezeways, under stairs or in other public egress areas of Group R-1 and R-2 occupancies. The breezeways, exit stairs and walkways from any R-1 or R-2 dwelling unit to the public parking lot shall be maintained free of any obstruction that hinders egress."

(161) Section 1501.2 is deleted.

(162) Section 1504.4 is amended to read as follows:

"1504.4 Fire protection. New and existing spray booths and spray rooms shall be protected by an approved automatic fire-extinguishing system ..."{remainder of section unchanged} ...

(163) Section 1504.7.1 is amended to add the following sentence:

"For purposes of this section, the ventilation system must operate for a minimum of three (3) minutes after spraying operations have stopped to insure all flammable vapors have been removed from the booth."

(164) Section 1504.7.1.1 is added to read as follows:

"1504.7.1.1 - Air systems.

1. Closed spray booths or spray rooms placed in service after the effective date of this ordinance shall be designed in such a manner that spraying operations can not be conducted whenever any door into the booth or room is open.

2. Air lines providing air to spray guns or similar devices must be equipped with an air solenoid valve that will shut off the air supply in the event of an activation of the booth or room fire suppression system.

   Exception: Spray booths installed prior to the effective date of this ordinance that were in compliance with the codes at the time they were installed."

(165) Section 2202.1 is amended by adding the following definition:

"REPAIR GARAGE. This occupancy shall also include garages involved in minor repair, modification and servicing of motor vehicles for items such as lube changes, inspections, windshield repair or replacement, shocks, minor part replacement and other such minor repairs."

(166) Section 2204.1 is amended to read as follows:

"2204.1 Supervision of dispensing. The dispensing of fuel at motor fuel-dispensing facilities shall be in accordance with the following:

1. Conducted by a qualified attendant; and/or,

2. Shall be under the supervision of a qualified attendant; and/or

3. Shall be an unattended self-service facility in accordance with Section 2204.3.

At any time the qualified attendant of item #1 or #2 above is not present, such operations shall be considered as an unattended self-service facility and shall also comply with Section 2204.3."

(167) Section 2204.1.1 is added to read as follows:

"Section 2204.1.1 General requirements:

1. Parking for customers for service other than fuel shall be provided so as to not block, obstruct, or otherwise interfere with the safe and free movement of vehicles to and from any dispensing device.

2. Approved leak testing shall be performed as required by the fire code official on all underground storage tanks and piping and records of such testing shall be provided to the fire department and maintained by the owner or operator of the facility containing the storage tanks for the life of the tanks

3. Fuel storage tanks shall be placed so that transport trucks delivering products will be parked completely off the public street, at least twenty-five (25) feet from any dispensing device and parked so as not to interfere with the safe, free movement of vehicles to and from any dispensing device. Where this can not be accomplished at existing stations or due to site limitations outside of the control of the owner, the fire code official may require additional safety measures be taken during off loading to minimize the risk of vehicles striking the tank truck or delivery hoses."

(168) Section 2204.5 is added to read as follows:

"2204.5 Temporary fuel dispensing at construction sites. Temporary storage tanks and dispensing operations used for diesel motor fuel at construction or similar temporary locations shall comply with the following requirements:

Applicability:

This section applies only to those tanks located on an active construction site, for fueling heavy dirt moving machinery or other equipment that is impractical to move over the streets to fuel, or that is of a fixed nature, that are not on site more than one hundred and twenty (120) days and contain diesel fuel. The time limitation may be extended on a case by case basis by the fire code official.

1. Fuel storage tanks may not exceed a capacity of three thousand (3,000) gallons. A maximum of three (3) tanks may be on site; provided they are separated by a minimum of one hundred (100) feet and the aggregate quantity of fuel does not exceed six thousand (6,000) gallons. Single tank quantities may be increased on a case by case basis with the approval of the fire code official if adequate precautions are taken.

   Exception: A single ten thousand (10,000) gallon diesel fuel tank may be installed on construction sites at the discretion of the fire marshal provided adequate safeguards are provided, the contractor can show an excessive hardship imposed by the lower fuel limits. This tank will not count towards the aggregate total for the site if this tank is separated from the remaining tanks by a minimum distance of two hundred (200) feet.

2. Tank locations must be approved by the fire code official.

3. Approved secondary containment must be provided capable of containing one and a half times the contents of the tank. Rainwater accumulations must be removed regularly from the containment area.

4. Single wall tanks containing diesel fuel only are permitted in temporary construction use.

5. The tank and installation must comply with all applicable provisions of NFPA #30, and applicable state law and local codes."

(169) Section 2206.2.1 is amended to add the following sentence:

"No single underground storage tank installed for service station fueling operations may exceed a maximum capacity of twenty thousand (20,000) gallons."

(170) Section 2206.2.2 is amended to add the following:

"Any above ground tank containing motor fuels and located inside a building shall comply with the requirements of 2206.2.3 in addition to meeting the requirements of this section. Regardless of other provisions of Chapter 22, the maximum quantity of fuel permitted inside aboveground tanks regulated by this Chapter and located inside of a building may not exceed three thousand (3,000) gallons in aggregate amounts, unless approved by the fire code official."

(171) Section 2206.2.3 is amended to read as follows:

"2206.2.3 Above-ground tanks located outside, above grade. Above-ground tanks shall not be used for the storage or dispensing of Class I, II or III-A liquid motor fuels except as provided by this section:

1. Above-ground tanks used for outside, above-grade storage of Class I liquids shall be listed and labeled as protected above-ground tanks and be in accordance with Chapter 34. Such tanks shall be located in accordance with Table 2206.2.3.

2. Tank Design. Tanks must have a minimum two (2) hour fire resistive rating, which shall be installed at the factory and shall be certified by the manufacturer. Tanks must be of an approved concrete vault design or a double wall, concrete filled steel tank or approved alternative design. Tanks must be UL #2085 listed. Tanks must comply with NFPA #30 and #30A and other applicable recognized standards. Tanks must include secondary containment as an integral part of the tank design. Tanks must be located within one hundred and fifty (150) feet of a public street or fire department access road and within a five hundred (500) foot hose lay of a fire hydrant. Each tank shall have a factory installed liquid level indicating gauge with a fill alarm, have atmospheric venting with a flame arrestor and emergency venting, be properly labeled, and be equipped with a fill limiter that will stop tank filling operations when the tank has reached 90% of its capacity. Tanks shall be equipped with an approved remote fill port or an approved spill containment basin designed to catch any spillage that occurs during tank fill operations. Tanks must be designed to provide vapor recovery if the tank capacity exceeds one thousand (1,000) gallons."

3. Size. Tanks containing Class I motor fuels shall not exceed ten thousand gallons (10,000) in individual and aggregate capacity. Tanks containing Class II or III-A liquid fuels shall not exceed twelve thousand (12,000) gallons in individual capacity or thirty six thousand (36,000) gallons in aggregate capacity. The total maximum aggregate quantity of all flammable and combustible liquid motor fuels in aboveground storage tanks on a site shall not exceed 36,000 gallons. Installations with the maximum allowable aggregate capacity shall be separated from other such installations by not less than one hundred (100) feet unless approved by the Fire marshal. For purposes of this section, a site is a piece of property owned, operated, controlled or managed by a common entity or person.

4. Pad Requirements. All tanks shall be installed on a concrete slab. The slab shall be designed to support the full weight of the tank and shall extend a minimum of three (3) feet past all portions of the tank. When required by the fire code official the pad shall have a minimum six (6) inch containment curb with an approved drain valve."

5. Bump posts shall be placed around the pad to protect the curbing and the tanks. The bump posts shall be a minimum of four (4) inch diameter, concrete filled steel piping or approved equivalent placed at a maximum of four (4) foot spacing around the pad perimeter.

6. Security Measures. When the fire code official determines additional

security measures such as fencing and/or monitoring capabilities are needed, they shall be provided to prevent tampering with the above ground tanks.

7. A three-foot (3') clear space must be maintained around the tank(s).

8. Repairs. When repairs and maintenance are required, they shall be made in accordance with the recommendations of the manufacturer. The owner of the tank shall provide the fire prevention office with documentation that verifies that the repairs were made in accordance with the manufacturer's recommendation.

9. The provisions of this section shall apply to all above ground fuel storage tanks regulated by Chapter 22 of the International Fire Code, and any generator or pump fuel tanks containing diesel fuel in excess of four hundred ninety nine (499) gallons or gasoline in any quantity above fifty (50) gallons. If a conflict exists between sections, the more restrictive regulation will prevail.

10. Aboveground fuel tanks may not be used for retail sales of fuel.

11. Signage complying with Section 2205.6 and NFPA 704 shall be installed on each tank and as required by the fire code official.

12. A minimum of one 40BC rated fire extinguisher shall be located not closer than twenty-five (25) feet and no further than fifty (50) feet from the dispensing device accessible during hours of pump operations.

13. Tanks located at construction projects or similar approved temporary use locations shall comply with 2204.5 and may be exempted from specific provisions of this section on an item by item basis."

(172) Section 2302 is amended by adding a second paragraph to the definition of "High-Piled Combustible Storage" to read as follows:

"Any building exceeding six thousand (6,000) square feet that has a clear height in excess of twelve (12) feet, making it possible to be used for storage in excess of twelve (12) feet, shall be considered to be high-piled storage and shall comply with the provisions of this section. When a specific product can not be identified, a fire protection system shall be installed as for Class IV commodities, to the maximum pile height."

(173) Table 2306.2 is amended by revising the text of "footnote j" to read as follows:

"j. Where areas of buildings are equipped with early suppression fast-response (ESFR) sprinklers, manual smoke and heat vents or manually activated engineered mechanical smoke exhaust systems shall be required within these areas."

(174) Section 2703.1.5 is added to read as follows:

"2703.1.5 Educational facilities - Possession of hazardous materials, including flammable or combustible materials is prohibited on the premises of an E Occupancy.

Exception:

1. School laboratories, classrooms, custodial or similar areas where the material is used or stored in accordance with its label directions and this code as part of a maintenance or supervised educational program.

2. Material brought onto the property of an E occupancy that is part of a school sponsored or sanctioned demonstration, exhibit, or assignment."

(175) Section 2703.1.6 is added to read as follows:

"2703.1.6 Possession of pyrotechnic chemical products: No person or persons shall design, possess or obtain any form of a chemical or chemical mixture that produces visible light displays or sounds through a self-propagating, heat-releasing or pressure building caused by a chemical reaction and/or by ignition, without the possession of a license issued by the State of Texas. Nor shall any person or persons design, possess or obtain any form of a chemical or chemical mixture used in the entertainment industry, to produce visible or audible effects by combustion, deflagration, detonation or chemical reaction, without the possession of a license issued by the State of Texas. Such a chemical mixture predominantly consists of solids capable of producing a controlled, self-sustaining and self-contained exothermic chemical reaction that results in heat, gas sound, pressure building, light or a combination of these effects."

(176) Section 3301.1.3 is amended to read as follows:

"3301.1.3 Fireworks prohibited - The presence (possession, discharge, manufacture, storage, sale, handling, use, transportation's, etc.) of any fireworks within the City of Euless is hereby declared to be a nuisance and is prohibited. The fire code official or his authorized representative shall seize and cause to be destroyed any fireworks found within such area in violation of this article. Any member of the fire prevention division, any member of the fire department, and any peace officer is empowered to detain or confiscate any fireworks being transported or possessed illegally until the fire prevention division can be notified, in order that such fireworks may be seized and destroyed in accordance with the terms of this article. Notwithstanding any penal provisions of this article, the city attorney is authorized to file suit on behalf of the city for such injunctive relief as may be necessary to prevent unlawful storage, transportation, keeping, selling, or otherwise distributing of fireworks within the jurisdiction of the city and to prevent any person from interfering with, or attempting to interfere with the seizure and destruction of such fireworks, provided however, that it shall not be necessary to obtain such injunctive relief as a prerequisite to seizure and destruction of such fireworks. Any member of the fire prevention division or their authorized agents is hereby authorized to enter any building where the

unlawful presence of fireworks is suspected in order to inspect the same for the presence of such fireworks. In any instance where the fire code official or any of his duly authorized assistants have probable cause to believe that fireworks are being stored in the building, they shall promptly enter the building for the purpose of conducting an inspection. It shall be the duty of the owner, lessee, or other person in charge of such building or their agents or employees to open and permit entry into the building by persons charged with the enforcement of this regulation.

Exception:

1. When a pyrotechnics permit has been issued for an approved fireworks display, storage and handling of fireworks is permitted as provided in Section 3304 and 3308.

2. The use of fireworks for approved displays for which a pyrotechnics permit has been issued as permitted in Section 3308."

(177) Section 3302 is amended by revising the definition of "fireworks" to read as follows:

"FIREWORKS. Any composition or device for the purpose of producing a visible or audible effect for entertainment purposes by combustion, deflagration, detonation, and/or activated by ignition with a match or other heat producing device that meets the definition of 1.4G fireworks or 1.3G fireworks as set forth herein." {definitions of 1.4G and 1.3G fireworks unchanged}

(178) Section 3305.1.2 is added to read as follows:

"3305.1.2 Prohibition. The manufacturing, assembly and testing of explosives, blasting agents and fireworks is prohibited in the City of Euless. This prohibition does not apply to the necessary steps taken at a drilling or construction site to prepare and use agents for which a permit has been issued."

(179) Section 3308.6.1 is amended to add the following sentence:

"Electric ignition shall be used for mortars of three (3) inches or greater in diameter."

(180) Section 3403.6 is amended to add a sentence to read as follows:

"An approved method of secondary containment shall be provided for underground tank and piping systems."

(181) Section 3404.2.7.1.1 is added to read as follows:

"3404.2.7.1.1 Testing of Tanks - Tanks used for the storage of flammable or combustible liquids or hazardous materials must be tested in an approved manner prior to the original installation, following any movement of the tank, and at those times as may be required by the fire code official to insure the integrity of the tank and the proper operation of safety features associated with the tank. All underground storage tanks shall be subjected to an approved tightness tests when

required by the fire code official. “

(182) Section 3404.2.9.5.1 is added to read as follows:

“3404.2.9.5.1 Combustible liquid storage tanks inside of buildings. The maximum aggregate allowable quantity limit shall be three thousand (3,000) gallons of Class II or III combustible liquid for storage in protected aboveground tanks complying with Section 3404.2.9.7 when all of the following conditions are met:

1. The entire 3,000 gallon (11 356 L) quantity shall be stored in protected above-ground tanks;

2. The 3,000 gallon (11 356 L) capacity shall be permitted to be stored in a single tank or multiple smaller tanks;

3. The tanks shall be located in a room protected by an automatic sprinkler system complying with Section 903.3.1.1; and

4. Tanks shall be connected to fuel-burning equipment, including generators, utilizing an approved closed piping system.

5. When required by the fire code official, fusible link operated self-closing shutoff valves must be installed.

The quantity of combustible liquid stored in tanks complying with this section shall not be counted towards the maximum allowable quantity set forth in Table 2703.1.1(1), and such tanks shall not be required to be located in a control area. Such tanks shall not be located more than two stories below grade.”

(183) Section 3404.2.9.6 is amended to add the following sentence:

“The distances for tank separation as referenced in NFPA #30 or the International Fire Code may be increased for adjacent tanks of different heights containing combustible or flammable liquids where wind blown flames from a vent or tank top fire may impinge upon an adjacent tank.”

(184) Section 3404.2.11.5 is amended to add the following sentence:

“An approved method of secondary containment shall be provided for underground tank and piping systems.”

(185) Section 3404.2.11.5.2 is amended to read as follows:

“3404.2.11.5.2 Leak detection. Underground storage tank systems ... {bulk of provision unchanged}...and installed in accordance with NFPA 30 and as specified in Section 3404.2.11.5.3.”

(186) Section 3404.2.11.5.3 is added to read as follows:

"3404.2.11.5.3 Observation wells. Approved sampling tubes of a minimum six (6) inches in diameter shall be installed in the backfill material of each underground flammable or combustible liquid storage tank. The tubes shall extend from a point twelve (12) inches below the average grade of the excavation to ground level and shall be provided with suitable surface access caps. Each tank site shall provide a sampling sump at the corners of the excavation with a minimum of four (4) sumps. Sampling tubes shall be placed in the product line excavation within ten (10) feet of the tank excavation and one every fifty (50) feet routed along product lines towards the dispensers. A minimum of two (2) are required."

(187) Section 3404.2.14.3 is added to read as follows:

"3404.2.14.3 Removal of tanks - The owner, occupant, lessee, contractor, or any other person in control of any property containing a storage tank in violation of Article 34 is responsible for complying with the provisions of this article. Tanks must be removed or when no reasonable method exists to remove a tank, and when approved by the fire code official, abandoned in place, within ninety days of notification to remove said tank by the fire department. The city may require soil tests or other tests to determine if a hazard exists, and if the property has been abandoned, a responsible party can not be located, or if the person in control of the property is unable or unwilling to do so, the city may remove any tanks on said property if it is deemed to be in the best interest of the city or the health and welfare of the general public to do so. Any and all expenses associated with such testing, removal or disposal of said tanks and product therein and any contaminated soil and products will be billed to the property owner, along with an appropriate administrative fee and if not satisfied within thirty (30) days, a lien will be placed against the property. Any removal of a tank by the city under the provisions of this article requires approval of the city manager."

(188) Section 3406.2.2 is amended to add the following:

"Notwithstanding the other provisions required or referenced herein, all storage tanks, regardless of contents or size, portable or fixed, must contain as a minimum the following information.

1. Name of product (common name).
2. Tank capacity in U.S. gallons.
3. DOT placard with the number visible. (if applicable)
4. NFPA placard (if applicable)

In addition, signs may be required at the gates or doors leading into certain areas to alert fire personnel of the hazards expected in said area. Any such signs must be posted and maintained as required by the fire department."

(189) Section 3406.5.4.5 is deleted and replaced with the following Sections 3406.5.4.5; 3406.5.4.5.1; 3406.5.4.5.2; and 3406.5.4.5.3:

"3406.5.4.5 Commercial, industrial, governmental or manufacturing. Dispensing of Class II and III motor vehicle fuel from tank vehicles into the fuel tanks of motor vehicles located at commercial, industrial, governmental or manufacturing establishments is allowed where permitted, provided such dispensing operations are conducted in accordance with Sections 3406.5.4.5.1 through 3406.5.4.5.3.

3406.5.4.5.1 Site requirements.

1. Dispensing may occur at sites that have been permitted to conduct mobile fueling.

2. When required by the fire code official, a detailed site plan shall be submitted with each application for a permit. The site plan must indicate:

   2.1 all buildings, structures, and appurtenances on site and their use or function;

   2.2 all uses adjacent to the property lines of the site;

   2.3 the locations of all storm drain openings, adjacent waterways or wetlands;

   2.4 information regarding slope, natural drainage, curbing, impounding and how a spill will be retained upon the site property; and,

   2.5 the scale of the site plan.

3. The fire code official is authorized to impose limits upon: the times and/or days during which mobile fueling operations are allowed to take place and specific locations on a site where fueling is permitted.

4. Mobile fueling operations shall be conducted in areas not generally accessible to the public.

5. Mobile fueling shall not take place within 15 feet of buildings, property lines, or combustible storage.

3406.5.4.5.2 Refueling Operator Requirements.

1. The owner of a mobile fueling operation shall provide to the jurisdiction a written response plan which demonstrates readiness to respond to a fuel spill, carry out appropriate mitigation measures, and to indicate its process to properly dispose of contaminated materials when circumstances require.

2. The tank vehicle shall comply with the requirements of NFPA 385 and Local, State and Federal requirements. The tank vehicle's specific functions shall include that of supplying fuel to motor vehicle fuel tanks. The vehicle and all its equipment shall be maintained in good repair.

3. Signs prohibiting smoking or open flames within 25 feet (7.62 m) of the tank vehicle or the point of fueling shall be prominently posted on 3 sides of the vehicle including the back and both sides.

4. A fire extinguisher with a minimum rating of 40:BC shall be provided on the vehicle with signage clearly indicating its location.

5. The dispensing nozzles and hoses shall be of an approved and listed type.

6. The dispensing hose shall not be extended from the reel more than 100 feet (30.48m) in length.

7. Absorbent materials, non-water absorbent pads, a 10 foot (3.048 m) long containment boom, an approved container with lid, and a non-metallic shovel shall be provided to mitigate a minimum 5-gallon fuel spill.

8. Tanker vehicles shall be equipped with a fuel limit switch such as a count-back switch, limiting the amount of a single fueling operation to a maximum of 500 gallons (1893 L) between resettings of the limit switch.

   Exception: Tankers utilizing remote emergency shut-off device capability where the operator constantly carries the shut-off device which, when activated, immediately causes flow of fuel from the tanker to cease.

9. Persons responsible for dispensing operations shall be trained in the appropriate mitigating actions in the event of a fire, leak, or spill. Training records shall be maintained by the dispensing company and shall be made available to the fire code official upon request.

10. Operators of tank vehicles used for mobile fueling operations shall have in their possession at all times an emergency communications device to notify the proper authorities in the event of an emergency.

3406.5.4.5.3 Operational Requirements.

1. The tank vehicle dispensing equipment shall be constantly attended and operated only by designated personnel who are trained to handle and dispense motor fuels.

2. Prior to beginning dispensing operations, precautions shall be taken to assure ignition sources are not present.

3. The engines of vehicles being fueled shall be shut off during dispensing operations.

4. Nighttime fueling operations shall only take place in adequately lighted areas.

5. The tank vehicle shall be positioned with respect to vehicles being fueled so as to preclude traffic from driving over the delivery hose and between the tank vehicle and the motor vehicle being fueled.

6. During fueling operations, tank vehicle brakes shall be set, chock blocks shall be in place and warning lights shall be in operation.

7. Motor vehicle fuel tanks shall not be topped off.

8. The dispensing hose shall be properly placed on an approved reel or in an approved compartment prior to moving the tank vehicle.

9. The fire code official and other appropriate authorities shall be notified when a reportable spill or unauthorized discharge occurs."

(190) Section 3803.1 is amended to add the following paragraph:

"No single container or aggregate installation may exceed the water gallon capacity specified for the zoning district as specified in the adopting ordinance. The installer shall be licensed by the Texas Railroad Commission and shall submit plans and specifications for such installation to the fire code official".

(191) Sections 3803.2.1.8 is added to read as follows:

"3803.2.1.8 Jewelry repair, dental labs and similar occupancies: Where natural gas service is not available, portable LP gas containers may be used to supply approved torch assemblies or similar appliances. Such containers shall not exceed twenty (20) pound water capacity. Aggregate capacity shall not exceed sixty (60) pound water capacity. Each device shall be separated from other containers by a distance of not less than twenty (20) feet."

(192) Section 3804.2 is amended to read as follows:

"3804.2 Maximum capacity within established limits: The storage of liquefied petroleum gas in the city is restricted to the limits established by law in the adopting ordinance. See Section 34-104, Euless Code of Ordinances for the specific quantities and zoning districts where liquefied petroleum gas is permitted."

(193) Section 4604.23 is amended to read as follows:

"4604.23 Egress path markings. Existing buildings of Groups A, B, E, I, M, and R-1 having occupied floors located more than 55 feet (22 860 mm) (16 764 mm) above the lowest level of fire department vehicle access shall be provided with luminous egress path markings in accordance with Section 1024.

Exception: Open, unenclosed stairwells in historic buildings designated as historic under a state or local historic preservation program."

(194) Chapter 47 - Standards, is amended to add the following under the chapter heading:

"The provisions of any standard referenced herein are considered to be a standard of good practice and as such may be enforced by the fire code official to address or to provide guidance in addressing various issues that may arise. The fire code official may utilize portions of any referenced standards as needed and as such they shall be considered to be a portion of this code to the extent they are utilized.

Due to the constant evolution of the Standards, a different edition of any Standard may be used with the approval of the fire code official as a standard of good practice or as a prescriptive application of a standard.

The following standards are amended to reflect a more current edition in effect at the time of code adoption. All other references remain as written:

NFPA

10-10 Portable Fire Extinguishers

13-10 Installation of Sprinkler Systems

13D-10 Installation of Sprinkler Systems in One and Two Family Dwellings

13R-10 Installation of Sprinkler Systems in Residential Occupancies up to and including 4 Stories in Height

14-10 Installation of Standpipe, Private Hydrants and Hose Systems

17-09 Installation of Dry Chemical Extinguishing Systems

17A-09 Installation of Wet Chemical Extinguishing Systems

20-10 Installation of Stationary Pumps for Fire Protection

24-10 Installation of Private Fire Service Mains and their Appurtenances

25-11 Inspection, Testing and Maintenance of Water Based Fire Protection Systems

32-11 Drycleaning Plants

58-11 Liquefied Petroleum Gas

72-10 National Fire Alarm Code

The following Regulations published by the State of Texas are also added to the list of approved Standards.

TI TEXAS INSURANCE CODE REGULATIONS

Chapter 6001 - Texas Insurance Code Chapter 6001 Fire Extinguishers Rules and 28 TAC 34.500 Fire Extinguisher Rules.

Chapter 6002 - Texas Insurance Code Chapter 6002. Fire Protection Sprinkler Systems and 28 TAC 34.700 the Fire Sprinkler Rules.

5.43-2 - Texas Insurance Code Article 5.43-2. Fire Detection and Alarm Devices and 28 TAC 34.600 the Fire Alarm Rules.

TN TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Rules governing emissions to the environment.

TR TEXAS RAILROAD COMMISSION

Railroad Commission Safety Rules governing LNG, LPG and CNG"

(Code 1974, § 6-1(e); Ord. No. 1088, § I(5), 8-25-92; Ord. No. 1124, §§ I, III, 1-25-94; Ord. No. 1134, § I, 4-12-94; Ord. No. 1177, § VII, 5-23-95; Ord. No. 1207, § II, 5-14-96; Ord. No. 1415, § I, 3-28-00; Ord. No. 1479, § IV, 6-12-01; Ord. No. 1654, § IV, 8-21-04; Ord. No. 1688, §§ II, III, 5-31-05; Ord. No. 1931, § IV, 1-24-12)

Editor's note–Ord. No. 1479, § IV, adopted June 12, 2001, repealed and replaced § 34-105, amendments to the fire code, as set out herein. The former § 34-105 derived from Code 1974, § 6-1(e); Ord. No. 1088, § I(5), 8-25-92; Ord. No. 1124, §§ I, III, 1-25-94; Ord. No. 1134, § I, 4-12-94; Ord. No. 1177, § VII, 5-23-95; Ord. No. 1207, § II, 5-14-96; Ord. No. 1415, § I, 3-28-00.

Sec. 34-106 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-106 in its entirety. Former § 34-106 pertained to service stations and derived from Code 1974, §§ 6-63(a), 6-66(a), (c) and Ord. No. 1606, § I, 10-14-03.

Sec. 34-107 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-107 in its entirety. Former § 34-107 pertained to mobile service station units prohibited and derived from Code 1974, § 6-71.

Secs. 34-108–34-130 Reserved

ARTICLE V. FIRE LANES*(43)

Sec. 34-131 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-131 in its entirety. Former § 34-131 pertained to fire lane marking and derived from Code 1974, § 6-71.

Sec. 34-132 Reserved

Editor's note–Ord. No. 1688, § I, adopted May 31, 2005, repealed § 34-132 in its entirety. Former § 34-132 pertained to obstructing fire lanes and derived from Code 1974, § 6-72.

Sec. 34-133 Removal of debris, trash and rubble after a fire

(a) The owner, manager or person having under his or her control any property or premises within the city, which has upon it any hay, straw, bales of wool, cotton, paper, trash, rubble or other substances which have been rendered useless or unmarketable by reason of a fire on such premises, or any debris rendered useless resulting from such fire, shall remove such substance and debris from the premises within 48 hours after being served notice to do so by the fire chief, fire marshal or building official.

(b) Whenever any building or other structure in the city is burned or partially burned, the owner thereof or the person in charge or control of the premises shall within ten days after receiving notice remove all refuse, trash, fire debris, charred or partially burned lumber and other materials involved as a result of the fire from the premises; and if such building or structure has received fire damage to such an extent that it is rendered incapable of being repaired, or has been declared unsafe by the building official, the remaining portion of the structure shall be removed or razed as directed.

Exception: The fire chief or fire marshal may extend the ten-day period of debris removal or demolition when there is an extended continuation of the fire's investigation, when the insurance adjustment is still pending review or when there are other extenuating circumstances that may call for a temporary delay.

(Ord. No. 1479, § V, 6-12-01)

Sec. 34-134 Building and site plans for pre-fire planning

(a) Property owners, managers, or persons in control of any commercial building shall furnish the fire code official a floor plan when alteration and or remodeling takes place that alters the original conditions or the most current conditions and those conditions or alterations are affecting entry and exit ways, interior corridors, offices or work areas, production areas, storage areas, or the location of interior fire protection devices and appliances.

(b) Property owners, managers, or persons in control of any property site shall furnish the fire code official a site plan showing any changes in the designated fire lanes (upon first receiving a review and approval of the fire code official) and dedicated emergency access easements (after obtaining a replat), any changes in fire protection devices or fire department connections, or other outdoor conditions that may affect the operations of the fire department during a fire or

hazardous materials emergency.

(Ord. No. 1479, § VI, 6-12-01; Ord. No. 1654, § V, 8-21-04)

Sec. 34-135 Special provisions for periods of extreme fire danger

A person shall not commit the following acts during a period of time when the city council, by adoption of an appropriate resolution, shall have imposed a burn ban within the corporate limits of the city due to weather conditions which create a high risk of outdoor wildfires:

(a) A person shall not operate an outdoor cooking appliance other than grills which are fueled by electricity, gas or charcoal.

(b) Outdoor cooking appliances shall not be operated on or within five feet of a combustible surface, or over vegetation unless said vegetation is adequately wetted prior to the cooking operation and a charged water hose is kept within 15 feet of the cooking appliance.

(c) A person shall not operate any device including grills, cooking pits, outdoor fireplaces, fire rings or similar devices that use an open flame and are capable of releasing sparks or embers into the atmosphere.

(d) A person shall not perform any outdoor burning.

(e) The use of grills at city park facilities is prohibited.

(f) A person shall not conduct a cutting or welding operation outside of specific guidelines as may be imposed by the fire marshal, including specific time and weather requirements, special fire watch requirements, pre-wetting requirements and other actions as may be deemed necessary by the fire marshal. A special permit program is in effect for cutting and welding operations during periods of burn bans. A written authorization is required from the fire marshal's office approving the operation and listing any special requirements prior to work commencing.

(g) Discarding of cigarettes or other burning or heated materials in a manner that could cause a fire is prohibited.

(Ord. No. 1741, § 1, 6-27-06)

CHAPTERS 35 - 37
RESERVED

CHAPTER 38
FLOODS*(44)

ARTICLE I. IN GENERAL

Sec. 38-1 Definitions

Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter its most reasonable application.

Appeal means a request for a review of the floodplain administrator's interpretation of any provision of this chapter or a request for a variance.

Appeal board means the planning and zoning commission of the city.

Area of shallow flooding means a designated AO, AH, or VO zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard means the land inundated by the base flood.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation means the water surface elevation resulting from the flood that has a one percent chance of equaling or exceeding that level in any given year.

Critical feature means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

Development means any manmade change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filing, grading, paving, excavation, drilling operations, or storage of equipment or materials.

Elevated building means a nonbasement building built, in the case of a building in zones A1-30, AE, A, A99, AO, AH, B, C, X, and D, to have the top of the elevated floor, or in the case of a building in zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of elevated floor elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of zones A1-30, AE, A, A99, AO, AH, B, C, X, D, the term "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE, or V, the term "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of section 60.3(e)(5) of the National Flood Insurance Program regulations.

Existing construction means, for the purposes of determining rates, structures for which the start of construction commenced before the effective date of the initial FIRM (October 3, 1984). "Existing construction" may also be referred to as "existing structures."

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters.

(2) The unusual and rapid accumulation or runoff of surface waters from any source.

Flood insurance rate map (FIRM) means an official map of community on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

Flood protection system means those physical, structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.

Floodplain or floodprone area means any land area susceptible to being inundated by water from any source (see the definition of "flooding").

Floodway (regulatory floodway) means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities and port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long term storage or related manufacturing facilities.

Highest adjacent grade means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Levee means a manmade structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area, including basement and garage. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirement of section 60.3 of the National Flood Insurance Program regulations.

Manufactured home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

Mean sea level means, for purposes of the National Flood Insurance Program, the North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New construction means, for floodplain management purposes, structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community.

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)) includes substantial improvement and means that date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basements, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds, not occupied as dwelling units or not part of the main structure.

Structure means a walled and roofed building, including a gas or liquid storage tank, which is principally above ground, as well as a manufactured home.

Substantial improvement means any additions or improvement of a structure, the cumulative cost of which equals or exceeds 25 percent of the market value of the structure, or any repair or reconstruction which equals or exceeds 50 percent of the market value of the structure at the time the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a structure listed in the National Register of Historic Places or a state inventory of historic places.

Variance is a grant of relief to a person from the requirements of this chapter when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this chapter. (For full requirements, see section 60.6 of the National Flood Insurance Program regulations.)

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until such time as that documentation is provided.

Water surface elevation means the height, in relation to the North American Vertical Datum (NAVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 1856, § I, 8-25-09)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 38-2 Statement of purpose

It is the purpose of this chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

(1) Protect human life and health;

(2) Minimize expenditure of public money for flood control projects;

(3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

(4) Minimize prolonged business interruptions;

(5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, storm drainage, sewer lines, streets and bridges located in floodplains;

(6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and

(7) Advise individuals in the acquisition or development of lands which are unsuited for certain purposes because of flood hazards.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-3 Methods of reducing flood losses

In order to accomplish its purposes, this chapter uses the following methods:

(1) Restricting or prohibiting uses that are dangerous to health, safety or property in times of flood, or that cause excessive increases in flood heights or velocities.

(2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction.

(3) Controlling the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of floodwaters.

(4) Controlling filling, grading, dredging and other development which may increase flood damage.

(5) Preventing or regulating the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-4 Lands to which this chapter applies

This chapter shall apply to all areas of special flood hazard within the jurisdiction of the city.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-5 Basis for establishing the areas of special flood hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled the Flood Insurance Study, Tarrant County, Texas and Incorporated areas dated September 25, 2009, with accompanying flood insurance rate maps (FIRM), any revisions thereto, and any areas inundated by the base flood, are hereby adopted by reference and declared to be part of this chapter.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-6 Compliance

No structure or land shall be located, altered or have its use changed without full compliance with the terms of this chapter and other applicable regulations.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-7 Abrogation and greater restrictions

This chapter is not intended to repeal, abrogate or impair any existing easement, covenants or deed restrictions. However, where this chapter and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-8 Interpretation

In the interpretation and application of this chapter, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body, and deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-9 Warning and disclaimer of liability

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions, greater floods can and will occur and flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any official or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made thereunder.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-10A Statutory authorization

The Legislature of the State of Texas has in the Flood Control Insurance Act, V.T.C.A., Water Code § 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain as follows.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-10B Findings of fact

(1) The flood hazard areas of Euless are subject to periodic inundation, which could result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(2) When there are flood losses, they are created by the cumulative effect of obstructions in floodplains which may cause an increase in flood heights and velocities, and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(Ord. No. 1856, § I, 8-25-09)

Secs. 38-11–38-40 Reserved

ARTICLE II. ADMINISTRATION*(45)

Sec. 38-41 Floodplain administrator–Designated

The city engineer or designee is hereby appointed the floodplain administrator to administer and implement the provisions of this chapter and other appropriate sections of 44 CFR (National Flood Insurance Program regulations) pertaining to floodplain management.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-42 Same–Duties and responsibilities

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

(1) Maintaining and holding open for public inspection all records pertaining to the provisions of this chapter.

(2) Reviewing permit applications to determine whether proposed building sites will be reasonably safe from flooding.

(3) Reviewing, approving or denying all applications for development permits required by adoption of this chapter.

(4) Reviewing permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies, including section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1334, from which prior approval is required.

(5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazard, for example, where there appears to be a conflict between a mapped boundary and actual field conditions, the floodplain administrator shall make the necessary interpretation.

(6) Notifying, in riverine situations, adjacent communities and the state coordinating agency, which is the state water development board, prior to any alteration or relocation of a watercourse, and submitting evidence of such notification to the Federal Emergency Management Agency.

(7) Assuring that the flood-carrying capacity within the altered or relocated portion of any watercourse is maintained.

(8) When base flood elevation data has not been provided in accordance with section 38-5, the permit applicant shall furnish an engineering study which includes the establishment of the base flood elevation. The lowest floor elevation of any structure shall be two feet or more above the base flood elevation.

(9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements or other development, including fill, shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the

proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(10) For areas outside the identified flood hazard areas which have experienced flooding or where heavy development is occurring, the floodplain administrator will require that a permit is applied for and that the applicant furnish an engineering study which includes the establishment of the base flood elevation. The lowest floor elevation of any structure within these areas shall be two feet above the base flood elevation.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-43 Same–Right of entry

The floodplain administrator, or his duly authorized representative, may enter any building, structure or premises to perform any duties imposed upon him by this chapter.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-44 Development permit–Established

A development permit shall be required to ensure conformance with the provisions of this chapter.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-45 Same–Permit procedures

(a) Application; required information. Application for a development permit shall be presented to the floodplain administrator on forms furnished by him and may include, but is not limited to, plans in duplicate, drawn to scale, showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

(1) Elevation in relation to mean sea level of the lowest floor, including basement and garage, of all new and substantially improved structures.

(2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed.

(3) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development.

(4) Maintain a record of all such information in accordance with section 38-42(1).

(b) Approval or denial. Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this chapter and the following relevant factors:

(1) The danger to life and property due to flooding or erosion damage.

(2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

(3) The danger that materials may be swept onto other lands to the injury of others.

(4) The compatibility of the proposed use with existing and anticipated development.

(5) The safety of access to the property in times of flood for ordinary and emergency vehicles.

(6) The costs of providing governmental services during and after flood conditions, including maintenance and repair of streets and bridges, and public utilities and facilities, such as sewer, gas, electrical and water systems.

(7) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.

(8) The necessity to the facility of a waterfront location, where applicable.

(9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use.

(10) The relationship of the proposed use to the comprehensive plan for that area.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-46 Same–Revocation

The floodplain administrator may revoke a permit or approval issued under the provisions of this chapter in cases where there has been any false statement or misrepresentation as to a material fact in the application or plans upon which the permit or approval was based.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-47 Variance procedures

(a) The appeal board, as established by the community, shall hear and render judgment on requests for variances from the requirements of this chapter.

(b) The appeal board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this chapter.

(c) Any person aggrieved by the decision of the appeal board may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and

shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the state inventory of historic places without regard to the procedures set forth in the remainder of this chapter. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, provided the relevant factors in section 38-45(b) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted in this section and the intent of this chapter, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this chapter.

(h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(i) Prerequisites for granting variances shall be as follows:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) Variances shall only be issued upon:

a. Showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

(3) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the required minimum finish floor elevation which is two feet above the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(j) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use, provided that the criteria outlined in subsections (a) through (i) of this section are met and

the structure or other development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-48 Stop work orders

Upon notice from the floodplain administrator that work on any building, structure, dike, bridge or any improvement which would affect water drainage is being done contrary to the provisions of this chapter, or in a dangerous or unsafe manner, such work shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, no written notice shall be required to be given by the floodplain administrator, provided written notice shall follow within 24 hours from the time oral notice to stop work is issued.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-49 Penalty for violation of chapter

Any person violating the terms and provisions of this chapter shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Any such violation shall be deemed a violation of a provision governing public health and sanitation under section 1-12 of this Code.

(Ord. No. 1856, § I, 8-25-09)

Secs. 38-50–38-70 Reserved

ARTICLE III. FLOOD DAMAGE PREVENTION

Sec. 38-71 General standards

In all areas of special flood hazard the following provisions are required for all new construction and substantial improvements:

(1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.

(2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.

(3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage.

(4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system.

(6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters.

(7) Onsite waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(8) All proposed developments shall be designed and constructed to not increase the flooding potential for existing structures that are known to be impacted by the base flood.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-72 Specific standards

In all areas of special flood hazard where base flood elevation data have been provided as set forth in sections 38-5, 38-42 or subsection 38-73(4), the following provisions are required:

(1) Residential and nonresidential construction. New construction and substantial improvement of any structure shall have the lowest floor, including basement and garage, elevated two feet or more above the base flood elevation. A licensed professional engineer, or land surveyor shall submit a certification letter to the planning and development department that the standard of this subsection, as proposed in subsection 38-45(a)(1), is satisfied.

(2) Enclosures. New construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or meet or exceed the following minimum criteria:

a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

b. The bottom of all openings shall be no higher than one foot above grade.

c. Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

(3) Manufactured homes. The placement of manufactured housing within the areas which have been identified as areas of special flood hazard is prohibited.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-73 Standards for subdivision proposals

The following standards shall apply for subdivision proposals:

(1) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with sections 38-2 and 38-3.

(2) All proposals for the development of subdivisions, including manufactured home parks and subdivisions, shall meet the development permit requirement of sections 38-44 and 38-45, and the provisions of this article.

(3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, if not otherwise provided pursuant to section 38-5 or subsection 38-42(8) of this chapter.

(4) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.

(5) All subdivision proposals, including manufactured home parks and subdivisions, shall have public utilities facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(Ord. No. 1856, § I, 8-25-09)

Cross reference–Unified development code, ch. 84.

Sec. 38-74 Standards for areas of shallow flooding (AO/AH zones)

Located within the areas of special flood hazard established in section 38-5 are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one to three feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

(1) All new construction and substantial improvements of residential structures shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified).

(2) All new construction and substantial improvements of nonresidential structures:

a. Shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the

community's FIRM (at least two feet if no depth number is specified); or

b. Together with attendant utility and sanitary facilities, shall be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

(4) A licensed professional engineer shall submit a certification to the floodplain administrator that the standards of this section, as proposed in subsection 38-45(a)(1), are satisfied.

(5) Require within zones AH or AO adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

(Ord. No. 1856, § I, 8-25-09)

Sec. 38-75 Floodways

Located within areas of special flood hazard established in section 38-5 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions shall apply:

(1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development, unless certification by a licensed professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(2) If subsection (1) of this section is satisfied, all construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.

(Ord. No. 1856, § I, 8-25-09)

CHAPTER 39
RESERVED

CHAPTER 40
GAS DRILLING AND PRODUCTION*(46)

ARTICLE I. GENERAL PROVISIONS

Sec. 40-1 Short title

This chapter shall be known and cited as the Gas Drilling and Production Chapter.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-2 Purpose

The exploration, development, and production of gas in the city is an activity which necessitates reasonable regulation to ensure that all property owners, mineral and otherwise, have the right to peaceably enjoy their property and its benefits and revenues. It is hereby declared to be the purpose of this chapter to establish reasonable and uniform limitations, safeguards and regulations for present and future operations on public or private property related to the exploring, drilling, developing, producing, transporting and storing of gas and other substances produced in association with gas within the city to protect the health, safety and general welfare of the public; minimize the potential impact to private property and mineral rights owners, protect the quality of the environment and encourage the orderly production of available mineral resources.

To the extent that any provision of this chapter might be inconsistent or in conflict with the specific provisions of any other ordinance of the city, this chapter shall control with regard to the conflict.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE II. DEFINITIONS

Sec. 40-3 Definitions

All technical industry words or phrases related to the drilling and production of gas wells not specifically defined in this chapter shall have the meanings customarily attributable thereto by prudent and reasonable gas industry operators. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandonment means “abandonment” as defined by the Railroad Commission of Texas and includes the plugging of the well and the restoration of any well site as required by this chapter.

Affiliate means any individual, partnership, association, joint stock company, limited liability company, trust, corporation or other person or entity who owns or controls, or is owned or controlled by, or is under common ownership or control with, the entity in question.

Blowout preventer means a mechanical, hydraulic, pneumatic or other device or combination of such devices secured to the top of a well casing, including valves, fittings and control mechanisms connected therewith, which can be closed around the drill pipe, or other tubular goods which completely close the top of the casing and are designed for preventing blowouts.

Building means any structure which is built for the support, shelter, or enclosure or partial

enclosure of persons, animals, chattels, or movable property of any kind including pools.

Cathodic protection means an electrochemical corrosion control technique accomplished by applying a direct current to the structure that causes the structure potential to change from the corrosion potential to a protective potential in the immunity region. The required cathodic protection current is supplied by sacrificial anode materials or by an impressed current system.

Church means a facility or area for people to gather together for public worship, religious training, or other religious activities including a temple, mosque, synagogue, convent, monastery or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence.

City means the City of Euless.

City Code means the Code of Ordinances of the city.

City attorney means the city attorney of the city.

City council means the elected governing body for the city.

City manager means the city manager of the city.

Closed loop system means a series of tanks including filters, separators and shakers on the discharge side of the drilling process that contains by-products of drilling such as cuttings and earthen materials to contain the by-products and recycle useable materials for reuse in the drilling process.

Commercial structure means all buildings which require the issuance of a certificate of occupancy from the city in order to be used for human occupancy.

Completion of drilling, re-drilling and re-working means the date the work is completed for the drilling, re-drilling, flowback or re-working operations and the crew is released by completing their work or contract or by their employer.

Compressor means a device or facility that raises the pressure of natural gas and/or by-products. Compressors are any devices that create a pressure differential to move or compress a vapor or a gas. Any such device used alone or in series to adequately compress a gas are considered a compressor.

Compressor station means a facility or location that contains a compressor or compressors to facilitate the movement of natural gas and/or it's by-products through a pipeline.

Customer means any person located within or conducting business in whole or in part within the city.

Day means a calendar day.

Derrick means any portable framework, tower, mast and/or structure which is required or used

in connection with drilling or re-working a well for the production of gas.

Drilling means digging or boring a new well for the purpose of exploring for, developing or producing gas or other hydrocarbons, or for the purpose of injecting gas, water or any other fluid or substance into the earth.

Drilling equipment means the derrick, together with all parts of and appurtenances to such structure, every piece of apparatus, machinery or equipment used or erected or maintained for use in connection with drilling.

Drill site means the immediate area used during the drilling or re-working of a well or wells located there and subsequent life of a well or wells or any associated operation.

Emergency response plan means a plan that is put in place to deal with emergency situations that may occur at the site during all stages of the drilling and production process.

Exploration means geologic or geophysical activities, including seismic surveys, related to the search for gas or other subsurface hydrocarbons.

FEMA means the Federal Emergency Management Agency.

Fire department means the fire department of the city.

Fire marshal means the fire marshal of the city or their designee.

Flaring means to burn off gas during the flow back stage. The process includes a series of secured piping to facilitate the flow of gas and a combustion chamber to ignite the gas.

Flow back operations includes work over and other means necessary to expel water from the drilling hole in order to facilitate the production of gas.

Fracturing means the injecting of a fluid into a well to cause pressure that “cracks” or opens up fractures already present in the formation.

Gas means any fluid, either combustible or noncombustible, which is produced in a natural state from the earth and which maintains a gaseous or rarefied state at standard temperature and pressure conditions and/or the gaseous components or vapors occurring in or derived from petroleum or natural gas.

Gas monitor means a device approved by the city that monitors the air for specific gases and will sound an alarm and/or transmit a signal to an offsite monitoring facility when specific gases are detected in the air.

Gas well means any well drilled, to be drilled, or used for the intended or actual production of natural gas.

Gas well pad site means any area designated as the location used during the drilling or re-working of a well or wells and subsequent life of a well or wells or any associated operation.

Hospital means a facility or area for providing health services primarily for human in-patient medical or surgical care for the sick or injured and including related facilities such as laboratories, out-patient departments, training facilities, central services facilities and staff offices that are an integral part of the facilities.

Inspection services provider(s) means the city manager's designee to provide gas well inspection services.

Operation site means the area used for development and production and all operational activities associated with gas after drilling activities are complete.

Operator means, for each well, the person listed on the appropriate railroad commission forms for a gas well that is, or will be, actually in charge and in control of drilling, maintaining, operating, pumping or controlling any well, including, without limitation, a unit operator. If the operator, as herein defined, is not the lessee under a gas lease of any premises affected by the provisions of this chapter, then such lessee shall also be deemed to be an operator. In the event that there is no gas lease relating to any premises affected by this chapter, the owner of the fee mineral estate in the premises shall be deemed an operator.

Perforation and perforate means to create holes in the casing or liner to achieve efficient communication between the reservoir and the wellbore.

Permit means any written license granted by the city for the exploration, development, and production of gas wells issued pursuant to the rules and regulations of this chapter.

Person means an individual, person, firm, partnership, co-partnership, affiliate, corporation, society, company, association, joint stock association, or body politic, and includes a trustee, receiver, assignee, administrator, executor, guardian, or other representative; and shall include both singular and plural and the masculine shall include the feminine gender.

Pipeline(s) means the pipeline(s) and other facilities approved by the city that are installed by the pipeline company in the public rights-of-way in accordance with a right-of-way use agreement.

Pipeline company means the company authorized by an agreement to install and maintain gas pipelines within the city's public right-of-way.

Production means the period after the fracturing and flow back operations have been completed and natural gas has been run through a series of separators and tank batteries to metering devices and into the pipeline.

Public building means all buildings used or designed and intended to be used for the purpose of assembly of persons for such purposes as deliberation, entertainment, amusement, or health care. Public buildings include, but are not limited to, theaters, assembly halls, auditoriums, funeral homes, gymnasiums, bowling alleys, courtrooms, jails, restaurants, churches, schools, and hospitals.

Public parks, playground, or golf course means a facility or area for recreational, cultural or aesthetic use owned or operated by a public agency and available to the general public. This

definition may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas, and water courses. The properties to which this definition refers to must be specifically dedicated, deeded or platted as public park, playground or golf course.

Railroad commission means the Railroad Commission of Texas.

Re-drill means re-completion of an existing well by deepening or sidetrack operations extending more than 150 feet from the existing well bore.

Residence means a house, duplex, apartment, townhouse, condominium, mobile home or other building designed for dwelling purposes, including those for which a building permit has been issued on the date the application for a gas well permit is filed with the inspector.

Re-working means re-completion or re-entry of existing well within the existing bore hole or by deepening or sidetrack operations which do not extend more than 150 feet from the existing well bore, or replacement of well liners or casings.

Rig up means the drilling rig is on site and active preparations have commenced and are continuing towards placing the drilling rig into operation.

Right-of-way means any area of land within the city that is acquired by, dedicated to, or claimed by the city in fee simple, by easement, by prescriptive right or other interest and that is expressly or impliedly accepted or used in fact or by operation of law as a public roadway, sidewalk, alley, utility, drainage, or public access easement or used for the provision of governmental services or functions. The term includes the area on, below, and above the surface of the public right-of-way. The term applies regardless of whether the public right-of-way is paved or unpaved.

Right-of-way use agreement means the authorization issued to the company to use the public rights-of-ways for:

(1) The construction, installation, maintenance and repair of company's pipeline;

(2) The use of such pipeline for the transportation of gas; and

(3) Any other directly related uses of the public rights-of-ways pursuant to and in accordance with a right-of-way use agreement.

Road repair agreement means a written agreement provided by or approved by the city obligating the operator, at his own expense, to repair damage, excluding ordinary wear and tear, if any, including but not limited to, public rights-of-ways, pursuant to and in accordance with a right-of-way use agreement.

School means any public or private primary or secondary facility providing education through and including the twelfth grade as well as any licensed day care centers, meaning any facility licensed by the state for purposes of providing care, training, education, custody, treatment or supervision for more than six children under 14 years of age for less than 24 hours per day including after school and summer programs.

Street means any public thoroughfare dedicated to the public use and not designated as an alley or private access easement.

Tank means a container, covered or uncovered, used in conjunction with the drilling or production of gas or other hydrocarbons for holding or storing fluids.

Technical advisor means such person(s) familiar with and educated in the gas industry or the law as it relates to gas matters who may be retained from time to time by the city.

Truck route means a designated route for commercial vehicles as designated by the city.

Watchman means a regular or contract employee of the operator or pipeline company whose sole purpose is to monitor conditions on the property, protect the property from unauthorized entry or tampering, and provide for the safety and security of the property, employees and the surrounding community.

Well means a hole or holes, bore or bores, to any horizon, formation, or strata for the purpose of producing gas, liquid hydrocarbon, brine water or sulphur water, or for use as an injection well for secondary recovery, disposal or production of gas, or other hydrocarbons from the earth.

Wire line logging means the use of radioactive isotopes or hazardous materials which are used when measuring formations within the immediate vicinity of the drilling hole.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE III. INSPECTION

Sec. 40-4 Inspection

(a) The city manager may designate an official, enter into a contract for professional services, or enter into an interlocal agreement with a governmental unit, in order to enforce the provisions of this chapter, who shall be known as the inspection services provider(s). The inspection services should be performed by an individual, preferably with a degree in petroleum engineering with a background in drilling and production or demonstrate a proven background in the drilling, production, and operation of gas wells. The inspection services provider(s) shall have the authority to issue any orders or directives required to carry out the intent and purpose of this chapter and its particular provisions. The inspection services provider(s) shall ensure the drilling site meets all site plan conditions as approved in the drilling permit. The inspection services provider(s) shall have the authority to approve minor changes to the site plan in order to facilitate conditions conducive to operations as long as they do not conflict with this chapter and are followed up within 24 hours by a change notice in writing to the planning and development department and the fire department.

Any major or significant change in the site plan layout shall require an amended permit submittal and approval by the city.

For the purposes of this section, the term “inspection services provider(s)” includes and refers to those employees of the city who are charged with or who are responsible for any aspect of enforcement, inspection or code compliance under this chapter as well as those persons who may have emergency response duties on the site during an emergency condition or recovery from an emergency.

(b) The inspection services provider(s) shall have the authority to enter and inspect any premises covered by the provisions of this chapter to determine compliance with the provisions of this chapter and all applicable laws, rules, regulations, standards or directives of the city, state or federal government. Failure of any person to permit access to the inspection services provider(s) shall constitute a violation of this chapter. The inspection services provider(s) may conduct periodic inspections of all permitted wells in the city to determine that the wells are operating in accordance within proper safety parameters as set out in this chapter and all regulations of the railroad commission.

(c) The inspection services provider(s) shall have the authority to request and receive any records, including any records sent to the railroad commission, logs, reports and the like, relating to the status or condition of any permitted well necessary to establish and determine compliance with the applicable gas well permit.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE IV. AGENT

Sec. 40-5 Operator’s agent

Every operator of any well shall designate an agent, who is a resident of the State of Texas, upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator so designating such agent shall within ten days notify the inspection services provider(s) in writing of any change in such agent or such mailing address unless operations within the city are discontinued.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE V. SEISMIC SURVEY REQUIREMENTS

Sec. 40-6 Seismic survey requirements

The city shall be notified prior to any seismic surveys being conducted in the city. No seismic survey shall be conducted in any right-of-way unless the applicant can provide proof of lease of mineral property within 200 feet of the right-of-way on which the survey is to be conducted and a permit is issued by the city engineer authorizing the work in the right-of-way. All seismic survey applications shall be submitted to the city and approved by the city and the inspection services provider(s). The seismic survey shall not begin prior to the issuance of an engineering and public works permit from the city.

Under no circumstances may explosive charges of any type be used in any way in the city

related to the preparation and/or conducting of a seismic survey.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE VI. GAS WELL PERMITS

Sec. 40-7 Gas well pad site permit and gas well operations permit required

(a) Gas well pad site permit. A gas well pad site permit obtained from the city will be considered as a permit for land use, as established in the permitted uses table 4A contained in section 84-84 of this Code.

(b) "Blanket" gas well pad site permit. The operator may apply for and obtain a "blanket" gas well pad site permit for more than one well, if multiple wells are located on the same gas well pad site as defined by the permit application.

(c) Termination and extension of permit. A gas well operations permit shall automatically terminate, unless extended, if drilling is not commenced within 180 days from the date of the issuance of the gas well operations permit. Drilling must commence within 180 days from the date of the issuance of the gas well pad site permit or at least one well under said permit as described in subsection (b) in order to maintain the validity of the gas well pad site permit for the multiple wells.

(d) Requirements for notification of drilling related activities. Any person who intends to re-work a permitted well using a drilling rig, to fracture stimulate a permitted well after initial completion or other exploration activities, shall give written notice to the planning and development department and the inspection services provider(s) no less than ten days before the activities begin. The notice must identify where the activities will be conducted and must describe the activities in detail, including whether explosive charges will be used, the duration of the activities and the time the activities will be conducted. The notice must also provide the address and 24-hour phone number of the person conducting the activities. The person conducting the activities will post a sign on the property giving the public notice of the activities, including the name, address and 24-hour phone number of the person conducting the activities. If the inspection services provider(s) determines that an inspection is necessary, the operator will pay the city for the inspection.

(e) Drilling operations. A person wanting to engage in and operate gas production activities on public or private property shall apply for and obtain a gas well operations permit under this chapter. It shall be unlawful for any person acting either for himself or acting as agent, employee, independent contractor, or servant for any person to drill any well, assist in any way in the site preparation, re-working, fracturing or operation of any such well or to conduct any activity related to the production of gas without first obtaining a gas well operations permit issued by the city in accordance with this chapter. The operator must apply for and obtain a gas well operations permit for the drilling, re-drilling, deepening, re-entering, activating or converting of each well on public or private property. Such activities include, but are not limited to initial site preparation, construction of rigs or tank batteries, fracturing and pressurizing, drilling, operation, production gathering or production maintenance, repair, re-working, testing, plugging and abandonment of the well and/or any other activity associated with mineral exploration at the site

of such well.

(f) Wire line logging notification requirements. A minimum of ten days prior to this event written notification shall be made to and a written acknowledgement received from the fire marshal. Appropriate permits related to the operation must be obtained from the fire marshal's office. Once approved, the operator shall notify the office of the fire marshal by phone a minimum of 72 hours prior to the commencement of the event. A plan must be submitted and approved for the transportation route of any explosives or radioactive materials to be used, and the transporting vehicles must follow that route. An onsite inspection may take place once the items have been delivered and prior to their use. Proper signage shall be posted for the procedure. It is recognized that these events may take place over a period of time. The written notification should cover the period of time these events are anticipated. Notification to the office of the fire marshal must be made prior to each instance when radioactive or explosive materials will be brought on site. All appropriate permits for any explosive or radioactive materials must be obtained from the fire marshal prior to any such products being brought into the city.

(g) Perforating notification requirements. Ten days prior to this event written notification shall be provided to the fire marshal. Perforating requires the approval of the fire marshal. Once the perforating schedule is approved, the operator shall notify the office of the fire marshal a minimum of three business days prior to the commencement of the event. A plan must be submitted and approved for the transportation route of any explosives or radioactive materials to be used, and the transporting vehicles must follow that route. An on-site inspection will take place once the items have been delivered and prior to their use. Proper signage shall be posted for the procedure. All appropriate permits for any explosive or radioactive materials must be obtained from the fire marshal prior to any such products being brought into the city.

(h) Requirements for fracture stimulation operations. The following requirements shall apply to all fracture stimulation operations performed on any well:

(1) At least 72 hours before operations are commenced, the operator shall post a sign at the entrance of the well site advising the public of the date the operations will commence;

(2) A watchman shall be required at all times during such operations; and

(3) At no time shall the well be allowed to flow or vent directly to the atmosphere without first directing the flow through separation equipment or into a portable tank.

(i) Abandoned wells. An expired gas well operations permit or an existing active permit for a well that has been abandoned shall not constitute authority for the re-entering and drilling of an abandoned well. An operator shall obtain a new gas well operations permit in accordance with the provisions of this chapter if the operator is re-entering and drilling an abandoned well. In the event of a dispute over the status of an "abandoned" well, the city manager will determine, after consulting with the inspection services provider(s), if the well is "abandoned" and the determination of the city manager shall be final.

(j) New or supplemental permit. A new or supplemental permit shall be obtained before such well may be reworked for purposes of re-drilling, deepening or converting such well to a depth

or use other than that set forth in the then current gas well operating permit for such well.

(k) Other permits required. The gas well pad site and gas well operations permits required by this chapter are in addition to, and are not in lieu of, any permit which may be required by the Unified Development Code or any other provision of this chapter, other requirements of this Code or by any other governmental agency. It is the intent of this section to clarify that no building or structure shall be erected, altered, enlarged, demolished or otherwise built, modified or removed without a permit from the city manager or their designee. It shall also be the responsibility of any person, firm or corporation to register as a general contractor with the city and obtain a building permit for any work that will require a permit. This includes, but is not limited to, construction of gates, fences, plumbing, irrigation, electricity, roadways, flow lines, gathering lines, tank batteries and buildings. Fees for work to be performed will be assessed in accordance with the city fee schedule.

(l) Floodway/floodplain. A gas well pad site permit and gas well operations permit may be issued for any well to be drilled within any floodplain or floodway identified by FEMA on the most current flood insurance rate maps (FIRM) if the following conditions have been achieved:

(1) Obtaining a floodplain development permit from the city engineer; and,

(2) Gas well development that will result in any changes to either the FEMA flood insurance rate maps (FIRM) or the corresponding hydraulic model will require the operator to obtain a FEMA letter of map revision (LOMR).

(m) Ordinance in full effect. By acceptance of any gas well pad site permit or gas well operations permit issued pursuant to this chapter, the applicant/operator/property owner expressly stipulates and agrees to be bound by and comply with the provisions of this chapter. The terms of this chapter shall be deemed to be incorporated in any gas well permit issued pursuant to this chapter with the same force and effect as if this chapter was set forth verbatim in such gas well permit.

(n) Streets and alleys. No gas well operations permit shall be issued for any well to be drilled within any of the streets or alleys of the city and/or projected streets or alleys, and no street or alley shall be blocked or encumbered or closed due to any exploration, drilling or production operations unless prior consent is obtained from the inspection services provider(s) and the city using the street closure process in place through the city engineering department.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-8 Gas well pad site permit application and filing fees

(a) Every application for a gas well pad site permit issued pursuant to this chapter shall be in writing signed by the operator, property owner, or some person duly authorized to sign on their behalf, and filed with the city planning and development department.

(b) Every application shall be accompanied by a nonrefundable permit fee as approved by action of the city council. The applicant/operator/property owner, in addition to the usual application fee, shall reimburse the city for the actual cost to the city for the services of a technical advisor to review the application and/or information supplement.

(c) The application shall include the following information:

(1) The date of the application.

(2) Name and address of individual designated to receive notice.

(3) An accurate legal description of the lease property to be used for the gas well pad site operation, and name of the geologic formation as used by the railroad commission. Property recorded by plat should reference subdivision, block and lot numbers.

(4) Map showing proposed transportation route and road for equipment, chemicals or waste products used or produced by the gas operation. The map will be accompanied by a list of non-TxDOT roads that will be used, and the lengths of each non-TxDOT road that will be used to access the site.

(5) Applicant/operator/property owner name and address and if the operator is a corporation, the state of incorporation, address, officers names and addresses, registered agent and address and articles of incorporation; and if the operator is a partnership, the names and addresses of the general partners. Copies of any assumed name filings.

(6) Owner and address of each parcel of property within 1,000 feet of the proposed gas well pad site boundary.

(7) A detailed site plan that includes the proposed operation site showing the location and providing a description of all improvements and structures within 1,000 feet of the well(s).

(8) A detailed site plan that includes specific details to the projected location of the major components of the drilling site including:

a. Impacted existing vegetation;

b. Creeks and other topographic features including the limits of the 100-year floodplain and floodway;

1. Adjacent buildings and other structures and the measured distance from the well site to these buildings and structures

2. Temporary and permanent fencing including height and type;

3. Entrance gate location and dimension;

4. Landscaping including a table to include plant material species type and number, square footage of landscaped area and notes regarding any proposed irrigation measures.

c. The location and dimensions of existing or proposed driveway(s) into the pad site. A visibility triangle is required at the intersection of the driveway with the access point to a public or private roadway, driveway or other access easement or alley. The drive approach shall be constructed according to the standards set by section 84-208 of the City of Euless Unified Development Code. The minimum storage length of the driveway measured shall be 75 feet and the minimum width shall be 24 feet with radii in accordance with the adopted fire lane standards.

(9) All required application and gas well pad site permit fees.

(10) Any additional information deemed necessary by the planning and development department in order for the applicant/operator/property owner to show compliance with the performance standards of this chapter.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-8.5 Gas well operations permit application and permit fees

(a) Every application for a gas well permit issued pursuant to this chapter shall be in writing signed by the operator, property owner, or some person duly authorized to sign on their behalf, and filed with the city planning and development department.

(b) Every application shall be accompanied by a nonrefundable permit fee as approved by action of the city council. The applicant/operator/property owner, in addition to the usual application fee, shall reimburse the city for the actual cost to the city for the services of a technical advisor to review the application and/or information supplement.

(c) The application shall include the following information:

(1) The date of the application.

(2) An accurate legal description of the lease property to be used for the gas operation, the parcel and the production unit and name of the geologic formation as used by the railroad commission. Property recorded by plat should reference subdivision, block and lot numbers.

(3) A copy of the approved gas well pad site permit or a completed gas well pad site permit application to be considered concurrently with the gas well operations permit application. A gas well operations permit shall not be issued by the city until approval of the gas well pad site permit has been issued.

(4) A copy of the approved railroad commission permit to drill, together with attachments and survey plats which are applicable to the drill and operation sites.

(5) Proposed well name.

(6) Surface owner name(s) and address(es) of the lease property.

(7) Mineral lessee name and address.

(8) Name and address of individual designated to receive notice.

(9) Name of representative with supervisory authority over all gas operation site activities and a 24-hour phone number.

(10) The exact and correct acreage of the gas well pad site and number of wells included in the gas well operations permit application.

(11) A detailed site plan that includes the proposed operation site showing the location and providing a description of all improvements and structures within 1,000 feet of the well(s), including the location of the proposed well(s) and other facilities and equipment, including, but not limited to, tanks, pipelines, compressors, separators and storage sheds.

(12) A signed road repair agreement supplied by the city that provides that the operator shall repair, at his own expense, any damage to roads, streets, or highways caused by the use of heavy vehicles for any activity associated with the preparation, drilling, production, and operation of gas wells.

(13) A description of public utilities required during drilling and operation.

(14) A description of the water source to be used during drilling and the planned total amount of water usage for drilling and fracturing processes.

(15) A copy of the determination by the Texas Commission on Environmental Quality of the depth of useable quality ground water.

(16) The insurance and security requirement documents under this chapter.

(17) A notarized statement signed by the operator, or designated representative, that the information submitted with the application is, within the personal knowledge of the operator or designated representative, true and correct.

(18) A copy of the emergency response plan for the site.

(19) A hazardous materials inventory statement including MSDS sheets on all products being used broken down into drilling and post drilling documents.

(20) An erosion control plan, grading and drainage plan prepared by a licensed civil engineer meeting the approval of the city engineer.

(21) All required application and gas well operations permit fees.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-9 Issuance of gas well pad site permit and gas well operations permit

A gas well pad site permit shall be required if a proposed well is to be located within the city.

(a) Gas well pad site permitting procedure.

(1) It is the responsibility of the inspection services provider(s) to review and recommend approval or denial of all applications for gas well pad site permits and gas well operations permits based on the criteria established by this chapter. The city and the inspection services provider(s), within 60 days after the filing of a completed application and remittance of all fees, insurance and security per the requirements of this chapter for a gas well pad site permit, shall determine whether or not the application complies in all respects with the provisions of this chapter and shall determine if the proposed well to be drilled or the facility to be installed is in compliance with the distance requirements for the requested gas well pad site permit.

(2) The provisions of this section shall apply to any residences, commercial structures or public buildings for which an application for a building permit has been submitted on the date the application for a gas well pad site permit is filed with the planning and development department.

(3) Setback requirements for approval process. Depending on the setback distances of the proposed well head locations to adjacent structures, the following final approval authorities shall be utilized for the approval process of gas well pad site permits:

Distance of Potential Well Head Bore Locations from Adjacent Residential, Commercial or Public Building Structure(s)	**Waiver(s) Obtained from Adjacent Property Owners**	**Final Approval Authority**
Greater than 600'	None required	City manager or their designee
Between 600' and 400' from adjacent residential or public building structure(s)	Waivers provided from all property owners of structures within the 600' to 400' range	City manager or their designee
	Absence of waivers from all property owners of structures within the 600' to 400' range	City council
Between 400' and 200' from adjacent residential or public building structure(s)		City council
Within 600' of the external boundaries of properties which have been specifically dedicated, deeded or platted as a public park, playground or golf course		City council

(4) Within 45 days of the inspection services provider(s)' determination that the application complies with all requirements, the city manager or their designee shall provide a letter of approval or denial for any gas well pad site permit applications that meet the criteria sited in subsection (a)(3) above that allow the city manager or their designee final approval authority of the permit. If the conditions of proposed gas well pad site permit requires city council approval, the city manager or their designee will coordinate placing the matter on the city council agenda for a public hearing and consideration of the permit and give notice by mail of the time, place and purpose thereof to the applicant and any other party who has requested in writing to be so notified. The 45-day period shall not begin to run until the city manager or their designee and the inspection services provider(s) has made a determination that the application complies with all requirements.

(b) Requirements for obtaining waivers from protected use property owners.

(1) No application for a gas well pad site permit in which the proposed well bore is within 600 feet of a residential structure or public building shall be accepted unless written notarized waivers are obtained from all residential structures, commercial structures or public building property owners within 600 feet of the proposed well(s). Written notarized waivers granted by all the residential structures, commercial structures and public building property owners within a 600-foot radius around the proposed well(s) must be filed, at the expense of the operator, in the applicable county records.

All waivers must identify the property address, block and lot number, subdivision name and plat volume and page number. Copies of filed residential structures, commercial structures or public building property owner waivers of must be submitted with the filing of a completed application for a gas well pad site permit.

If the operator fails to obtain written waivers from all residential structures, commercial structures or public building property owners within a 600-foot radius around the proposed well(s), the operator must submit a request for a waiver to drill a gas well within 600 feet of a residential structure, commercial structure or public building from city council pursuant to the requirements of subsection (c) of this section or modify the well location to comply with the 600-foot setback from all residential structures, commercial structures or public buildings. Waivers from residential structure, commercial structure or public building property owners shall not be required for an approved or existing gas well pad site permit.

(c) City council approval process of certain gas well pad site permits.

(1) At least 20 days, and no more than 30 days prior to the date of the public hearing before the city council for a gas well pad site permit under this chapter, city shall notify, at operator's expense, each surface owner of property, as shown by the current tax roll, within 1,000 feet of the proposed gas well pad

site boundary, not owned by or under lease to the operator and the hearing date and time. Depositing the same, in the United States mail, properly addressed and postage paid, as outlined below, shall constitute such notice.

(2) At least 15 days, and no more than 20 days prior to the date of the public hearing before city council for a gas well pad site permit under this chapter, the city shall publish a copy of the notice as outlined below, at operator's expense, in one issue of a daily newspaper.

The notice shall read as follows:

"Notice is hereby given that, acting under and pursuant to the Ordinances of the City of Euless, Texas, on the ;date rule; day of ;date rule;, 20_____, _____ filed with the City of Euless, an application for a Gas Well Pad Site Permit to drill, complete and operate a well for gas upon property located in Euless, Tarrant County, Texas, more particularly shown on the map of record in Volume ;#rule;, Page ;#rule;, Plat records of Tarrant County, Texas or per Tax Tract Number _____, Tarrant County, Texas. The City Council will conduct a public hearing on the request for said permit on the _____ day of ;date rule;, 20_____ at _____o'clock _____.m. in the City Council Chambers located at 201 N. Ector Drive, Euless, Texas.

(3) At least 20 days prior to the date of the public hearing before city council for a gas well pad site permit the applicant/operator/property owner shall, at the applicant/operator/property owner's expense, erect at least one city-provided sign, no less than two feet by three feet, upon the premises upon which a gas well pad site permit has been requested. Where possible, the sign or signs shall be located in a conspicuous place or places upon the property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property.

a. The sign(s) shall substantially indicate that a gas well pad site permit to drill for gas has been requested and state the time and place of the public hearing, and shall further set forth that additional information can be acquired by telephoning the applicant/operator/property owner at the number indicated on the sign.

b. The continued maintenance of any such sign(s) shall not be deemed a condition precedent to the holding of any public hearing or to any other official action concerning this chapter.

c. Any sign(s) shall be removed within seven days after final action by the city council.

(4) All notice provisions contained herein shall be deemed sufficient upon substantial compliance with this section.

(5) After a permit application is submitted, the city and the inspection services

provider(s) shall evaluate the public impact of the proposed activity. The inspection services provider(s) shall consider the proposed site and the proposed operations or drilling program and shall draft recommended restrictions or conditions, including minimum separation distance for drilling or other operations, special safety equipment and procedures, recommended noise reduction levels, screening and any other requirements the inspection services provider(s) deems appropriate. The recommendation shall be submitted to the city council for consideration prior to the public hearing.

(6) At the public hearing and before the city council considers the merits of the application and the recommendations of the inspection services provider(s) and city staff, the applicant/operator/property owner shall provide evidence of having otherwise complied with or satisfied all other requirements of this chapter.

(7) The burden of proof on all matters considered in the hearing shall be upon the applicant/operator/property owner.

(8) The city council shall review the application and any other related information. The city council shall consider the following in deciding whether to grant a gas well pad site permit:

a. Whether the operations proposed are reasonable under the circumstances and conditions prevailing in the area considering the particular location and the character of the improvements located there;

b. Whether the drilling of such wells would conflict with the orderly growth and development of the city;

c. Whether there are other alternative well site locations;

d. Whether the operations proposed are consistent with the health, safety, and welfare of the public when and if conducted in accordance with the gas well pad site permit conditions to be imposed;

e. Whether there is adequate access for emergency personnel and equipment;

f. Whether the impact upon the adjacent property and the general public by operations conducted in compliance with the gas well pad site permit conditions are reasonable and justified, balancing the following factors:

1. The right of the owner(s) of the mineral estate to explore, develop, and produce the minerals; and

2. The availability of alternative drill sites.

g. The recommendations of the city staff and the inspection services provider(s).

(9) The city council may require an increase in the distance the well is setback from any residence, commercial structure, church, public building, hospital, public park, playground, or golf course, or school or require any change in operation, plan, design, layout or any change in the on-site and technical regulations in section 40-16 of this chapter, including fencing, screening, lighting, delivery times, noise levels, tank height, or any other matters reasonably required by public interest.

(10) In making its decision, the city council shall have the power and authority to refuse any gas well pad site permit to drill any well at any particular location within the city, when by reason of such particular location and other characteristics, the drilling of such wells at such particular location would be deemed injurious to the health, safety, or welfare of the inhabitants in the immediate area of the city.

(11) The city council may accept, reject, or modify the application in the interest of securing compliance with this chapter, this Code and/or to protect the health, safety, and welfare of the community.

(12) If the applicant/operator/property owner elects not to accept the gas well pad site permit under the terms and conditions imposed by the city council and wishes to withdraw his application, the applicant/operator/property owner must notify the planning and development department in writing of their decision.

(d) Gas well operations permitting procedure.

(1) A gas well operations permit for each individual well head bore shall be filed with the planning and development department who shall forward all applications to the inspections services provider(s) to review. Incomplete applications shall be returned to the applicant, in which case the city shall provide a written explanation of the deficiencies if requested by the applicant.

(2) Multiple gas well operations permit applications may be combined provided that all well heads are contained within the same pad site and any required information unique to each well head be provided in total with the application. In all gas well operations permit applications, the permit fee will be assessed per well head.

(3) No gas well operations permit shall be approved under this chapter unless the applicant/operator/property owner first receives approval of a gas well pad site permit. Denial or conditional approval of any such applications shall be grounds for denial or conditional approval of the gas well operations permit. This section does not preclude the applicant/operator/property owner from submitting a gas well pad site permit and gas well operations permit to be reviewed concurrently.

(4) It is the responsibility of the inspection services provider(s) to review and recommend approval or denial of all applications for gas well operations

permits based on the criteria established by this chapter; whether the application is in conformance with the applicable gas well pad site permit and whether the application is in conformance with the insurance and security requirements set forth in section 40-14.

(5) The inspections services provider(s) shall review each application within 15 days after acceptance for filing and shall determine whether the application includes all of the information required by this chapter. The inspections services provider(s) shall then provide a written report to the city manager or their designee recommending approval; approval with conditions; or denial of the application for a gas well operations permit.

(e) Well, tank batteries, well facilities and equipment setbacks for gas well operations permit. See article VII, section 40-16, technical regulations.

(f) Fencing requirements for well site perimeter. See article VII, section 40-16, technical regulations.

(g) Vehicle routes for gas well operations permit. Vehicles associated with drilling and/or production in excess of three tons shall be restricted to such streets designated as either truck routes or as specified in the transportation route submitted with the gas well pad site application as specified in subsection 40-8(c)(4) of this chapter. The vehicles shall be operated on a truck route wherever capable of being used; they shall be operated on an alternative route only when it is not possible to use a truck route to fulfill the purpose for which such vehicle is then being operated.

(h) Work hours for gas well operations permit. Site development, other than drilling and flowback operations, shall be conducted only between 7:00 a.m. and 7:00 p.m., Monday through Friday and 9:00 a.m. and 6:00 p.m. on Saturday. Truck deliveries of equipment and materials associated with drilling and/or production, well servicing, site preparation and other related work conducted on the well site, shall be limited to the specified hours and days except in cases of fires, blowouts, explosions and any other emergencies or where the delivery of equipment is necessary to prevent the cessation of drilling or production or where additional hours of operation are permitted under subsection 40-7(g) or subsection 40-15(21) of this chapter. The city manager or their designee has the authority to approve additional hours of work when the well site is located in such a position that the operations at or related to the site will not have an adverse impact on adjacent properties.

(i) Noise restrictions for gas well permit.

(1) No drilling, producing or other operations shall produce a sound level greater than 78 dB(A) when measured at a distance of 300 feet from the production equipment in question. In the event the ambient noise level at the location prior to the operations in question, as established by a noise level survey conducted as part of the gas well pad site permit application process, has a baseline level greater than 78 dB(A), the noise level from the well or its operations cannot cause an increase in the ambient noise level so established. It shall be the operators responsibility to determine if the baseline ambient noise level at 300

feet exceeds 78dB(A) and to request a variance in the noise level as part of the application process. The noise level shall be the average of sound level meter readings taken consecutively at any given time from four feet above ground level, when measured at a distance of 300 feet from the production equipment. A maximum sound level of 85 dB(A) shall apply to formation fracturing when measured at a distance of 300 feet from the production equipment in question.

(2) A noise management plan shall be required when requested by the city planning and development department or the inspection services provider(s). Said plan must be approved by the city and the inspection services provider(s) and must identify operation noise impacts, provide documentation of the ambient noise levels prior to construction at the facility and after installation of compressors or other equipment and detail how noise impacts will be mitigated. Acoustic blankets, sound walls, mufflers or other alternative methods as approved by the city and the inspection services provider(s) may be used to ensure compliance. All soundproofing shall comply with accepted and best industry standards.

(3) When requested by the city or the inspection services provider(s), the exterior noise level generated by the drilling, re-drilling or other operations of all gas wells shall be continuously monitored to ensure compliance with this chapter. The cost of such monitoring shall be the responsibility of the well operator.

(j) Tank specifications for gas well operations permit. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications unless other specifications are approved by the fire marshal. The top of the tanks shall be no higher than eight feet above the terrain surrounding the tanks. All tanks shall be set back pursuant to the standards of the railroad commission and the National Fire Protection Association, but in all cases, shall be at least 75 feet from any public right-of-way or property line. Tanks and installations must conform to the provisions of the fire code in effect in the city at the time of application as well as the provisions found in N.F.P.A. #30 as may be appropriate and those found in section 40-15 of this chapter and any site specific requirements imposed by the fire marshal.

(k) All other provisions outlined in this chapter shall be required.

(l) Gas well pad site and gas well operations permitting within certain “PD” planned development districts. Within a “PD” zoning district encompassing more than 100 acres, the city council may elect to modify or waive the setback and minimum distance criteria and waiver requirements of section 40-9 and section 40-15 of this chapter, for any gas well pad site permit and gas well operations permit, and may establish setback and minimum distance criteria requirements that are specific to the site; provided, however, that in no event shall the outside fence or boundary of any gas well pad site be built or located closer than 150 feet from any residence, commercial structure, church, public building, hospital, public park, playground or golf course, or school, including any such structure for which a building permit has been issued on the date the application for a gas well pad site permit is filed with the inspector. Gas well pad site permits and gas well operations permits shall thereafter be issued on the site by the city manager or his designee as the final approval

authority in accordance with such modified or waived setback and minimum distance criteria and waiver requirements. Such permits shall be exempt from future setback and minimum distance criteria and waiver regulations established by this chapter but shall be subject to all other requirements and conditions in this chapter that are in effect on the date the application for a gas well pad site permit or gas well operations permit is filed with the inspector.

(Ord. No. 1852, § 1, 6-23-09; Ord. No. 1938, § I, 1-24-12)

Sec. 40-10 Denial of gas well operations permit application

If the city manager or their designee or city council denies a gas well operations permit application for reasons other than lack of required distance as set out in this chapter for the requested gas well operations permit, the operator shall be notified in writing of such denial stating the reasons for the denial. Within 30 days of the date of the written decision of the city manager or their designee or the city council to deny the gas well operations permit, the operator may:

(1) Cure those conditions that caused the denial and resubmit the application to the planning and development department for approval and issuance of the gas well operations permit; or

(2) File an appeal to the city council under the provisions outlined in section 40-20 of this chapter.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-11 Amendment of gas well operations permits

(a) Applications for amended gas well operations permits shall be in writing, shall be signed by the operator, and shall include the following:

(1) A nonrefundable permit fee as approved by action of the city council. The applicant/operator, in addition to the usual application fee, shall reimburse the city for the actual cost to the city for the services of a technical advisor to review the application and/or information supplement;

(2) A description of the proposed amendments;

(3) Any changes to the information submitted with the application for the existing gas well operations permit (if such information has not previously been provided to the city);

(4) Such additional information as is reasonably required by the planning and development department or the inspection services provider(s) to demonstrate compliance with the applicable gas well operations permit; and

(5) Such additional information as is reasonably required by the city or the inspection services provider(s) to prevent imminent destruction of property or injury to persons.

(b) All applications for amended gas well operations permits shall be filed with the planning and development department and will be reviewed by the inspection services provider(s) and other city departments. Incomplete applications may be returned to the applicant, in which case, the city shall provide a written explanation of the deficiencies; however, the city shall retain the application fee. The city may return any application as incomplete if there is a dispute pending before the railroad commission regarding the determination of the operator.

(c) If the activities proposed by the amendment are not materially different from the activities covered by the existing gas well operations permit, and if the proposed activities are in conformance with the applicable gas well operations permit, then the city manager or their designee may approve the amendment within ten days after the application is filed.

(d) If the activities proposed by the amendment are materially different from the activities covered by the existing gas well operations permit, and if the proposed activities are in conformance with the applicable gas well operations permit, then the city manager or their designee may approve the amendment within 30 days after the application is filed. If, however, the activities proposed by the amendment are materially different and, in the judgment of the city manager or their designee might create a risk of imminent destruction of property or injury to persons that was not associated with the activities covered by the existing gas well operations permit or that was not otherwise taken into consideration by the existing gas well operations permit, the city manager or their designee shall require the amendment to be processed as a new gas well operations permit application.

(e) The failure of the city manager or their designee to review and issue an amended gas well operations permit within the time limits specified above shall not cause the application for the amended gas well operations permit to be deemed approved.

(f) The decision of the city manager or their designee to deny an amendment to a gas well operations permit shall be provided to the operator in writing within ten days after the decision, including an explanation of the basis for the decision. The operator may appeal any such denial to the city council pursuant to section 40-20 of this chapter.

(g) An operator must submit an application for a new gas well pad site permit to commence drilling from a new drill site that is not shown on (or incorporated by reference as part of) an existing gas well pad site permit.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-12 Suspension or revocation of gas well operations permit, effect

(a) If an operator (or its officers, employees, agents, contractors, or representatives) fails to comply with any requirement of a gas well operations permit (including any requirement incorporated by reference as part of the gas well operations permit), the city or its designee shall give written notice to the operator specifying the nature of the failure and giving the operator a reasonable time to cure, taking into consideration the nature and extent of the failure, the extent of the efforts required to cure, and the potential impact on the health, safety, and welfare of the community. In no event, however, shall the cure period be less than 30 days, unless the failure presents a risk of imminent destruction of property or injury to persons or

unless the failure involves the operator's failure to provide periodic reports as required by this chapter.

(b) If the operator fails to correct the noncompliance within 30 days from the date of the notice, the city or its designee may suspend or revoke the gas well operations permit pursuant to the provisions of this chapter.

(c) No person shall carry on any operations under the terms of the gas well operations permit issued under this chapter during any period of any gas well operations permit suspension or revocation or pending a review of the decision or order of the city in suspending or revoking the gas well operations permit. Nothing contained herein shall be construed to prevent the necessary, diligent and bona fide efforts to cure and remedy the default or violation for which the suspension or revocation of the gas well operations permit was ordered for the safety of persons or as required by the railroad commission.

(d) If the operator does not cure the noncompliance within the time specified in this chapter, the city or its designee, upon written notice to the operator, may notify the railroad commission and request that the railroad commission take any appropriate action.

(e) Operator may, within 30 days of the date of the decision of the city or its designee in writing to suspend or revoke a gas well operations permit, file an appeal to the city council under the provisions outlined in section 40-20 of this chapter.

(f) If an application for a gas well operations permit is denied by the city manager or its designee, nothing herein contained shall prevent a new permit application from being submitted to the planning and development department for the same well.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-13 Periodic reports

(a) The operator shall notify the planning and development department and the inspection services provider(s) of any changes to the following information within five city working days after the change occurs:

(1) The name, address, and phone number of the operator;

(2) The name, address, and phone number of the person designated to receive notices from the city (which person must be a resident of Texas that can be served in person or by registered or certified mail);

(3) The operator's emergency action response plan (including "drive-to-maps" from public rights-of-way to each drill site).

(b) The operator shall notify the planning and development department and inspection services provider(s) of any change to the name, address, and 24-hour phone number of the person(s) with supervisory authority over drilling or operations activities within one business day.

(c) The operator shall provide the planning and development department a copy of any "incident reports" or written complaints submitted to the railroad commission within 30 days after the operator has notice of the existence of such reports or complaints regardless of the specifics, causes or basis for the complaint.

(d) Beginning on December 31st after each well is completed, and continuing annually thereafter until the operator notifies the planning and development department that the well has been abandoned and the site restored, the operator shall submit a written report to the planning and development department identifying any changes to the information that was included in the application for the applicable gas well operations permit that have not been previously reported to the city. The report shall be due to the planning and development department by December 31st of each year the well is in operation.

(e) Requirement to report emergencies.

(1) The operator shall immediately notify the planning and development department, the inspection services provider(s) and the fire department of any incident resulting in product loss from a hydrocarbon storage facility or pipeline, blowout, fire, explosion, incident resulting in injury, death or property damage, or any other significant incidents as defined by the railroad commission.

(2) A written report, containing a brief summary of the incident, shall be submitted to the planning and development department, the inspection services provider(s) and the fire marshal by 5:00 p.m. on the first business day of the city following the incident.

(3) A follow up report shall be submitted to the planning and development department, the inspection services provider(s) and the fire marshal within 30 days following the incident. The follow up report shall contain the following information:

a. Operator/applicant name, phone number, address, and, if available, email address.

b. Description of the incident including the date, time, location and cause of the incident.

c. Duration of the incident, including when it began, when it terminated to the degree that it no longer constituted a hazard to the health, safety and well being of persons or property, regardless of the distance or separation from the place of incident.

d. How the incident was brought under control or remedied.

e. A full and complete description of the type of investigation or inquiry that was made concerning the incident, the findings thereof, and the action taken as a result of the findings to prevent a recurrence of the incident.

f. The report must be signed and dated by the person responsible for such report.

(f) The operator shall meet with representatives of the city and the inspection services provider(s) as requested.

(g) The city or the inspection services provider(s) may issue a written stop work order to address any violation that affects the health or safety of the community. Failure to immediately comply with a stop work order other than taking those steps necessary to safely secure the operations in progress on the site is a violation of this chapter. Appeals to a stop work order shall be processed as specified in article X of this chapter.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE VII. INSURANCE, BOND AND INDEMNITY

Sec. 40-14 Bond, letters of credit, indemnity, insurance

(a) General requirements. The operator shall be required to:

(1) Comply with the terms and conditions of this chapter and the gas well operations permit issued hereunder:

(2) Promptly clear drill and operation sites of all litter, trash, waste and other substances used, allowed, or occurring in the operations, and after abandonment or completion grade, level and restore such property to the same surface conditions as nearly as possible as existed before operations.

(3) Indemnify and hold harmless the city, its officers, agents, and employees from and against any and all claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and attorney's fees, for injury to or death of any person or for damage to any property arising out of or in connection with the work done by operator under a gas well operations permit regardless of whether such injuries, death or damages are caused in whole or in part by the negligence of operator.

(4) Promptly pay all fines, penalties and other assessments imposed due to breach of any terms of the gas well operations permit.

(5) Promptly restore to its former condition any roadway, right-of-way, or other public property damaged by the gas operation (see road repair contract).

(b) Bond, irrevocable letter of credit.

(1) Prior to the issuance of a gas well operations permit, the operator shall provide the inspection services provider(s) with a security instrument in the form of a surety bond or an irrevocable letter of credit as follows:

a. Bond. A bond shall be executed by a reliable bonding or insurance institution authorized to do business in Texas and acceptable to the city. The bond shall become effective on or before the date the gas well operations permit is issued

and shall remain in force and effect for at least a period of six months after the expiration of the gas well operations permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. The operator shall be listed as principal and the instrument shall run to the city, as obligee, and shall be conditioned that the operator will comply and perform in accordance with the terms and regulations of this chapter, other applicable city ordinances and the road repair agreement. The original bond shall be submitted to the inspection services provider(s) with a copy of the same provided to the city secretary and the risk manager.

b. Letter of credit. A letter of credit shall be issued by a reliable bank authorized to do business in Texas, acceptable to the city in its sole discretion, and shall become effective on or before the date the gas well operations permit is issued. The letter of credit shall remain in force and effect for at least a period of six months after the expiration of the gas well operations permit term or until the well is plugged and abandoned and the site is restored, whichever occurs last. If the letter of credit is for a time period less than the life of the well as required by this chapter, the operator must either renew the letter of credit or replace the letter of credit with a bond in the amount required by this chapter, on or before 45 days prior to the expiration date of the letter of credit. If the operator fails to deliver to the city either the renewal letter of credit or replacement bond in the appropriate amount on or before 45 days prior to the expiration date of the letter of credit, the city may draw the entire face amount of the attached letter of credit to be held by the city as security for operator's performance of its obligations under this chapter.

In any event, the city may draw upon the letter of credit upon a signed statement by its city manager that the terms of this chapter have not been complied with, in any respect.

The city shall be authorized to draw upon such letter of credit to recover any fines, penalties, defaults or violations assessed under this chapter or the road repair agreement. Evidence of the execution of a letter of credit shall be submitted to the inspection services provider(s) by submitting an original signed letter of credit from the banking institution, with a copy of the same provided to the city secretary and the risk manager.

c. The principal amount of any security instrument shall be $50,000.00 for any single well. If, after completion of a well, the applicant/operator, who initially posted a $50,000.00 bond, has complied with all of the provisions of this chapter and whose well is in the producing state and all drilling operations have ceased, may submit a request to the inspection services provider(s) to reduce the existing bond to $10,000.00 for the remainder of the time the well produces without re-working. During re-working operations, the amount of the bond or letter of credit shall be maintained at $50,000.00.

An operator drilling or re-working between one and five wells at any given time, may elect to provide a blanket bond or letter of credit, in the principal minimum amount of $150,000.00. If the operator drills or reworks more than five wells at

a time, the blanket bond or letter of credit shall be increased in increments of $50,000.00 per each additional well. Once the wells are in the producing stage and all drilling operations have ceased, the operator may elect to provide a blanket bond or letter of credit for the remainder of the time the well produces, without re-working, as follows:

Number of Producing Wells	Blanket Bond/Letter of Credit Amount Required
Up to 75 wells	$100,000.00
75 to 150 wells	$150,000.00
More than 150 wells	$200,000.00

If at any time after no less than a 15-day written notice to the operator and a public hearing, the city council shall deem any operator's bond or letter of credit to be insufficient, it may require the operator to increase the amount of the bond or letter of credit up to a maximum of $250,000.00 per well.

d. Whenever the city or its designee finds that a default has occurred in the performance of any requirement or condition imposed by this chapter, a written notice shall be given to the operator. Such notice shall specify the work to be done, the estimated cost, and the period of time deemed by the city or its designee to be reasonably necessary for the completion of such work. After receipt of such notice, the operator shall, within the time therein specified, either cause or require the work to be performed, or failing to do so, shall pay over to the city 125 percent of the estimated cost of doing the work as set forth in the notice. In no event, however, shall the cure period be less than 30 days unless the failure presents a risk of imminent destruction of property or injury to persons or unless the failure involves the operator's failure to provide periodic reports as required by this chapter.

The city shall be authorized to draw against any irrevocable letter of credit or bond to recover such amount due from the operator. Upon receipt of such monies, the city shall proceed by such mode as deemed convenient to cause the required work to be performed and completed, but no liability shall be incurred other than for the expenditure of said sum in hand. In the event that the well has not been properly abandoned under the regulations of the railroad commission, such additional money may be demanded from the operator as is necessary to properly plug and abandon the well and restore the drill site in conformity with the regulations of this chapter.

e. In the event the operator does not cause the work to be performed and fails or refuses to pay over to the city the estimated cost of the work to be done as set forth in the notice, or the issuer of the security instrument refuses to honor any draft by the city against the applicable irrevocable letter of credit or bond, the city may proceed to obtain compliance and abate the default by way of civil action against the operator, or by criminal action against the operator, or by both such methods. In addition, the city may summarily suspend or revoke the gas well operations permit and require that all operations on the well site immediately cease.

f. When the well or wells covered by said irrevocable letters of credit or bond have been properly abandoned in conformity with all regulations of this chapter, and in conformity with all regulations of the railroad commission and notice to that effect has been received by the city, or upon receipt of a satisfactory substitute, the irrevocable letter of credit or bond issued in compliance with these regulations shall be terminated and cancelled.

(c) Insurance. In addition to the bond or letter of credit required by this chapter, the operator shall carry a policy or policies of insurance issued by an insurance company or companies authorized to do business in Texas. In the event such insurance policy or policies are cancelled, the gas well operations permit shall be suspended on such date of cancellation and the operator's right to operate under such gas well operations permit shall immediately cease until the operator files additional insurance as provided herein.

(1) General requirements applicable to all policies:

a. The city, its officials, employees, agents and officers shall be endorsed as an "additional insured" to all policies except employers liability coverage under the operator's workers compensation policy.

b. All policies shall be written on an occurrence basis.

c. All policies shall be written by an insurer with an A-: VIII or better rating by the most current version of the A.M. Best Key Rating Guide or with such other financially sound insurance carriers acceptable to the city.

d. Deductibles shall be listed on the certificate of insurance and shall be on a "per occurrence" basis unless otherwise stipulated herein.

e. Certificates of insurance shall be delivered to the City of Euless, Department of Planning and Development, 201 N. Ector Drive, Euless, Texas 76039, evidencing all the required coverages, including endorsements, prior to the issuance of a gas well operations permit.

f. All policies shall be endorsed with a waiver of subrogation providing rights of recovery in favor of the city.

g. Any failure on part of the city to request required insurance documentation shall not constitute a waiver of the insurance requirement specified herein.

h. Each policy shall be endorsed to provide the city a minimum 30-day notice of cancellation, non-renewal, and/or material change in policy terms or coverage. A ten-day notice shall be acceptable in the event of non-payment of premium.

i. During the term of the gas well operations permit, the operator shall report to the planning and development department and the inspection services provider(s), in a timely manner, any known loss occurrence which could give rise to a liability claim or lawsuit or which could result in a property loss.

j. Upon request, certified copies of all insurance policies shall be furnished to the city.

(2) Standard commercial general liability policy. This coverage must include premises, operations, blowout or explosion, products, completed operations, sudden and accidental pollution, blanket contractual liability, underground resources damage, broad form property damage, independent contractors protective liability and personal injury. This coverage shall be a minimum combined single limit of $1,000,000.00 per occurrence for bodily injury and property damage.

(3) Excess or umbrella liability.

$5,000,000.00 excess, if the operator has a stand-alone environmental pollution liability (EPL) policy.

$10,000,000.00 excess, if the operator does not have a stand-alone EPL policy. Coverage must include an endorsement for sudden or accidental pollution.

(4) Environmental pollution liability coverage.

a. Operator shall purchase and maintain in force for the duration of the gas well operations permit, insurance for environmental pollution liability applicable to bodily injury, property damage, including loss of use of damaged property or of property that has not been physically injured or destroyed; cleanup costs; and defense, including costs and expenses incurred in the investigation, defense or settlement of claims; all in connection with any loss arising from the insured site. Coverage shall be maintained in an amount of at least $1,000,000.00 per loss, with an annual aggregate of at least $10,000,000.00.

b. Coverage shall apply to sudden and accidental pollution conditions resulting from the escape or release of smoke, vapors, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste material or other irritants, contaminants or pollutants.

(5) Control of well. The policy shall cover the cost of controlling a well that is out of control, re-drilling or restoration expenses, seepage and pollution damage as first party recovery for the operator and related expenses, including, but not limited to, loss of equipment, experts and evacuation of residents.

$5,000,000.00 per occurrence/no aggregate, if available, otherwise an aggregate of $10,000,000.00.

$500,000.00 sub-limit endorsement may be added for damage to property for which the operator has care, custody and control.

(6) Workers compensation and employers liability insurance.

a. Workers compensation benefits shall be Texas statutory limits.

b. Employers liability shall be a minimum of $500,000.00 per accident.

c. Such coverage shall include a waiver of subrogation in favor of the city and provide coverage in accordance with applicable state and federal laws.

(7) Automobile liability insurance.

a. Combined single limit of $1,000,000.00 per occurrence for bodily injury and property damage.

b. Coverage must include all owned, hired and not-owned automobiles.

(8) Certificates of insurance.

a. The company must be admitted or approved to do business in the State of Texas, unless the coverage is written by a surplus lines insurer.

b. The insurance policies must be underwritten on forms that have been approved by the Texas State Board of Insurance or ISO, or an equivalent policy form acceptable to the city, with the exception of environmental pollution liability and control of well coverage.

c. Sets forth all endorsements and insurance coverage according to requirements and instructions contained herein.

d. Shall specifically set forth the notice of cancellation, termination, or change in coverage provisions to the city. All policies shall be endorsed to read:

"THIS POLICY WILL NOT BE CANCELLED OR NON-RENEWED WITHOUT THIRTY (30) DAYS ADVANCED WRITTEN NOTICE TO THE OWNER AND THE CITY EXCEPT WHEN THIS POLICY IS BEING CANCELLED FOR NONPAYMENT OF PREMIUM, IN WHICH CASE TEN (10) DAYS ADVANCE WRITTEN NOTICE IS REQUIRED".

e. Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

(d) Indemnification and express negligence provisions. Each gas well operations permit issued by the city shall include the following language:

"OPERATOR DOES HEREBY EXPRESSLY RELEASE AND DISCHARGE ALL CLAIMS, DEMANDS, ACTIONS, JUDGMENTS, AND EXECUTIONS WHICH IT EVER HAD, OR NOW HAS OR MAY HAVE, OR ASSIGNS MAY HAVE, OR CLAIM TO HAVE, AGAINST THE CITY OF EULESS, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, SUCCESSORS, ASSIGNS, SPONSORS, VOLUNTEERS, OR EMPLOYEES, CREATED BY, OR ARISING OUT OF PERSONAL INJURIES, KNOWN OR UNKNOWN, AND INJURIES TO PROPERTY, REAL OR PERSONAL, OR IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR UNDER A GAS WELL PERMIT. THE OPERATOR SHALL FULLY DEFEND, PROTECT, INDEMNIFY, AND HOLD HARMLESS

THE CITY OF EULESS, TEXAS, ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, EMPLOYEES, SUCCESSORS, ASSIGNS, OR SPONSORS, OR VOLUNTEERS FROM AND AGAINST EACH AND EVERY CLAIM, DEMAND, OR CAUSE OF ACTION AND ANY AND ALL LIABILITY, DAMAGES. OBLIGATIONS, JUDGMENTS, LOSSES, FINES, PENALTIES, COSTS, FEES, AND EXPENSES INCURRED IN DEFENSE OF THE CITY OF EULESS, TEXAS, ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, INCLUDING, WITHOUT LIMITATION, PERSONAL INJURIES AND DEATH IN CONNECTION THEREWITH WHICH MAY BE MADE OR ASSERTED BY OPERATOR, ITS AGENTS, ASSIGNS, OR ANY THIRD PARTIES ON ACCOUNT OF, ARISING OUT OF, OR IN ANY WAY INCIDENTAL TO OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK PERFORMED BY THE OPERATOR UNDER A GAS WELL OPERATIONS PERMIT. THE OPERATOR AGREES TO INDEMNIFY AND HOLD HARMLESS THE CITY OF EULESS, TEXAS, ITS DEPARTMENTS, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, SUCCESSORS, ASSIGNS, SPONSORS, OR VOLUNTEERS FROM ANY LIABILITIES OR DAMAGES SUFFERED AS A RESULT OF CLAIMS, DEMANDS, COSTS, OR JUDGMENTS AGAINST THE CITY OF EULESS, ITS DEPARTMENTS, ITS OFFICERS, AGENTS, SERVANTS, OR EMPLOYEES, CREATED BY, OR ARISING OUT OF THE ACTS OR OMISSIONS OF THE CITY OF EULESS OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE GAS WELLS INCLUDING, BUT NOT LIMITED TO, CLAIMS AND DAMAGES ARISING IN WHOLE OR IN PART FROM THE NEGLIGENCE OF THE CITY OF EULESS OCCURRING ON THE DRILL SITE OR OPERATION SITE IN THE COURSE AND SCOPE OF INSPECTING AND PERMITTING THE GAS WELLS. IT IS UNDERSTOOD AND AGREED THAT THE INDEMNITY PROVIDED FOR IN THIS SECTION IS AN INDEMNITY EXTENDED BY THE OPERATOR TO INDEMNIFY AND PROTECT THE CITY OF EULESS, TEXAS, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES FROM THE CONSEQUENCES OF THE NEGLIGENCE OF THE CITY OF EULESS, TEXAS, AND/OR ITS DEPARTMENTS, AGENTS, OFFICERS, SERVANTS, OR EMPLOYEES, WHETHER THAT NEGLIGENCE IS THE SOLE OR CONTRIBUTING CAUSE OF THE RESULTANT INJURY, DEATH, AND/OR DAMAGE."

_____ "Operator's Authorized Representative"

The operator shall sign this release and indemnity agreement before issuance of a gas well operations permit.

(e) Notice. The individual designated to receive notice shall be a resident of Texas upon whom all orders and notices provided in this chapter may be served in person or by registered or certified mail. Every operator shall within ten days notify the planning and development department and the inspection services provider(s) in writing of any change in such agent or mailing address unless operations in the city are discontinued and abandonment is complete.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE VIII. ONSITE AND TECHNICAL REGULATIONS

Sec. 40-15 Technical regulations

(a) Onsite requirements.

(1) Abandoned wells. All wells shall be abandoned in accordance with the rules of the railroad commission; however, all well casings shall be cut and removed to a depth of at least ten feet below the surface unless the surface owner submits a written agreement otherwise. Three feet shall be the minimum depth. No structures shall be built over an abandoned well.

(2) Blowout prevention. In all cases, blowout prevention equipment shall be used on all wells being drilled, worked-over or in which tubing is being changed. Protection shall be provided to prevent blowout during gas operations as required by and in conformance with the requirements of the railroad commission and the recommendations of the American Petroleum Institute. The operator must equip all drilling wells with adequate blowout preventers, flow lines and valves commensurate with the working pressures involved as required by the railroad commission. See also subsection [(a)(40)], valves.

(3) Chemical and materials storage. All chemicals and/or hazardous materials shall be stored in such a manner as to prevent, contain and facilitate rapid remediation and cleanup of any accidental spill, leak or discharge of hazardous materials. Operator shall have all material data safety sheets (MSDS) for all hazardous materials on site. All applicable federal and state regulatory requirements for the proper labeling of containers shall be followed. Appropriate pollution prevention actions shall be required and include, but are not limited to, chemicals and materials raised from the ground (i.e. wooden pallets or containment pallets), installation and maintenance of secondary containment systems, bulk storage and protection from stormwater and weather elements.

(4) Closed loop mud system. A closed loop mud circulating system shall be the only approved and permitted system used in the drilling process. This system is self contained and has the ability to reuse certain products and is contained within the confines of the gas well pad site.

(5) Compliance. Operator shall comply at all times with all applicable federal, state and city requirements.

(6) Compressor stations. For the compressing of gas are prohibited in the city. This prohibition is not intended to include well head compressor equipment used temporarily in placing a well into production or to prohibit well head compressors used at a single site for the purpose of moving the recovered gas from the well head to the distribution system.

(7) Discharge. No person shall place, deposit, discharge, or cause or permit to be placed, deposited or discharged, any oil, naphtha, petroleum, asphalt, tar, hydrocarbon substances or any refuse including wastewater or brine from any gas operation or the contents of any container used in connection with any gas operation in, into, or upon any public rights-of-way, alleys, streets, lots, storm drain, ditch or

sewer, sanitary drain or any body of water or any public or private property in the city.

(8) Drilling fluids. Low toxicity glycols, synthetic hydrocarbons, polymers and esters shall be substituted for conventional oil-based drilling fluids. Drilling fluid storage pits shall not be located within the city.

(9) Drill stem testing. All open hole formation or drill stem testing shall be done during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate 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.

(10) Drip pans and other containment devices. Drip pans and other containment devices shall be placed or installed underneath all tanks, containers, pumps, lubricating oil systems, engines, fuel and chemical storage tanks, system valves, connections and any other areas or structures that could potentially leak, discharge or spill hazard liquids, semi liquids or solid waste materials, including hazardous waste inseparable by simple mechanical removal processes and made up primarily of natural materials.

(11) Dust, vibration, odors. All drilling and production operations shall be conducted in such a manner as to minimize, so far as practicable, dust, vibration, or noxious odors, and shall be in accordance with the best accepted practices incident to drilling for the production of gas and other hydrocarbon substances in urban areas. All equipment used shall be so constructed and operated so that vibrations, dust, odor or other harmful or annoying substances or effect will be minimized by the operations carried on at any drilling or production site or from anything incident thereto, to the injury or annoyance of persons living in the vicinity; nor shall the site or structures thereon be permitted to become dilapidated, unsightly or unsafe. Proven technological improvements in industry standards of drilling and production in this area shall be adopted as they become available if capable of reducing factors of dust, vibration and odor.

(12) Electric lines. All electric lines to site development and/or drilling facilities shall be located in a manner compatible to those already installed in the surrounding area or subdivision. Production power lines shall be placed underground.

(13) Electric motors. Only electric prime movers or motors shall be permitted for the purpose of pumping wells. All electrical installations and equipment shall conform to the city ordinances and the appropriate national codes.

(14) Emergency response plan. Prior to the commencement of any gas or other hydrocarbons production activities, operator shall submit to the planning and development department, the inspection services provider(s) and fire marshal an emergency response plan establishing written procedures to minimize any hazard resulting from drilling, completion or producing of gas wells. Said plan shall use existing guidelines established by the railroad commission, Texas Commission on Environmental Quality, Department of Transportation and/or the Environmental Protection Agency. The emergency response plan shall be kept current with any

additions, modifications and/or amendments concerning all construction related activities, oil and/or natural gas operations and/or production. Updated plans shall be submitted to the inspection services provider(s) and the fire marshal within two business days after any additions, modifications and/or amendments to said plans. A copy of the emergency response plan shall be kept on site in a location approved by the fire marshal and readily available.

(15) Explosives. Under no circumstances shall explosives of any type be stored on site, transported through the site, placed on the site or used during any phase of drilling, re-drilling, deepening, re-entering, activating, converting, fracturing or completing a gas well without the prior consent of the fire marshal. A fire department permit is required prior to any explosives being brought on site. The operator shall provide written notice to the planning and development department and the inspection services provider(s) and apply for a fire department permit at least ten days prior to such activities. The notice shall identify the date that the explosive charges will be used, when they will be removed, the type and quantity of explosives to be on site, the date and means of transporting the explosive charges, and the transportation route to and from the drill and/or operation site. Explosives must be properly secured and safeguarded and may not remain on the site longer than necessary for the operation for which they are used. It is the specific intent of this chapter that long term storage of explosives, considered to be storage in excess of 30 consecutive days, is prohibited. Modifications to the explosives permit may be made by the fire marshal upon written request by the operator.

(16) Equipment painted. All production equipment on the site shall be painted and maintained at all times, including pumping units, storage tanks, buildings and structures. Paint colors must be approved by the city manager or their designee.

(17) Fire prevention; sources of ignition. Firefighting apparatus and supplies as approved by the fire marshal and required by any applicable federal, state, or local law shall be provided by the operator, at the operator's cost, and shall be maintained on the drilling site at all times during drilling and production operations. The operator shall be responsible for the maintenance and upkeep of such equipment. Each well shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an emergency shut off valve to the well distribution line.

(18) Fresh water wells. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located within 200 feet of any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

The operator of a gas well shall provide the inspection services provider(s) with a "pre-drilling" and "post-drilling" water analysis from any fresh water well within 500 feet of the gas well.

Water samples must be collected and analyzed utilizing proper sampling and laboratory protocol from a United States Environmental Protection Agency or Texas Commission on Environmental Quality approved laboratory. Well samples shall be

analyzed prior to any drilling activity and again within three months after the drilling begins. Testing must include, but are not limited to: methane, chloride, sodium, barium and strontium.

Within 180 days of its completion date, each gas well shall be equipped with a cathodic protection system to protect the production casing from external corrosion. The inspection services provider(s) may approve an alternative method of protecting the production casing from external corrosion.

(19) Reduced emission completion. After fracturing or re-fracturing, operators shall employ appropriate equipment and processes as soon as practicable to minimize natural gas and associated vapor releases to the environment. All salable gas shall be directed to the sales line as soon as practicable or shut in and conserved. All wells that have a sales line shall be required to employ reduced emission completion techniques and methods, but operators may request a variance from the gas inspector if they believe that reduced emission completion techniques or methods are not feasible or would endanger the safety of personnel or the public.

Reduced emission completion techniques and methods shall not be required for well(s) that do not have a sales line and:

a. Were permitted prior to July 1, 2009; or

b. Is the first permitted well on a pad site.

Flaring may be allowed in some instances as an alternative to venting as allowed by the gas inspector. If burning of gases by open flame is authorized by the gas inspector then such open flame shall not be located closer than 300 feet from any buildings not used in operations on the drilling site and such open flame shall be screened in such a way as to minimize detrimental effects to adjacent property owners.

(20) Gas processing onsite. Except for a conventional gas separator or line heater, no refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained in the city.

(21) Gas well stimulation. All formation fracturing operations shall be conducted during daylight hours unless the operator has notified and received written authorization from the city manager or their designee and the inspection services provider(s) that fracing will occur before or after daylight hours to meet safety requirements. Air, gas, or pneumatic drilling shall not be permitted. Only light sand fracture technology or those technologies approved by the inspection services provider(s) may be used to fracture stimulate a well.

(22) Air, gas or pneumatic drilling. Air, gas, or pneumatic drilling shall not be permitted.

(23) Gas monitor. Any well site that is located within 1,000 feet of an occupied or occupiable structure shall be equipped with an approved gas monitoring or leak detection device or system. The device or system must be equipped to sound a local

alarm and shall also be monitored off site continuously by a licensed and approved alarm monitoring company when required by the fire marshal. The installation must meet design criteria approved by the fire marshal.

(24) Grass, weeds, trash. All drill and operation pad sites shall be kept clear of grass, weeds, and combustible trash.

(25) Hazardous materials management plan. Hazardous materials management plan shall be on file with the fire marshal and the inspection services provider.

(26) Lights. No person shall permit any lights located on any drill or operation site to be directed in such a manner so that they shine directly on public roads, adjacent property or property in the general vicinity of the operation site. To the extent practicable, and taking into account safety considerations, site lighting shall be directed downward and internally so as to avoid glare on public roads and adjacent residences, commercial structures and public buildings within 1,000 feet. Other provisions not withstanding, lights shall be shielded or otherwise protected to avoid presenting a hazard to traffic on adjacent roadways.

(27) Lubricating oil purification units. Any and all stationary diesel power plants located on the drilling site and associated with the exploration, development, operation and production of oil, natural gas or associated minerals shall have a lube oil purification unit installed, maintained and functional at all times while the diesel plant is operating.

(28) Muffling exhaust. Exhaust from any internal combustion engine, stationary or mounted on wheels, used in connection with the drilling of any well or for use on any production equipment shall not be discharged into the open air unless it is equipped with an exhaust muffler, or mufflers or an exhaust muffler box constructed of noncombustible materials sufficient to suppress noise and prevent the escape of obnoxious gases, fumes or ignited carbon or soot.

(29) Organic solvents. Organic solvents, such as trichloroethylene and carbon tetrachloride, shall not be used for cleaning any element, structure or component of the drilling rig, platform, and/or associated equipment, tools or pipes. To the maximum extent practical, high flash point Varsol shall be used.

(30) Pipe dope. Lead-free pipe dope shall be substituted for API specified pipe dope.

(31) Pits. The use of pits is generally prohibited on site. If a specific need for a pit exists, the operator shall submit a detailed request in writing to the planning and development department and the inspection services provider(s), who will consider the request as part of the gas well permit site plan. No pit is permitted unless it is outlined in the site plan, is accompanied by a specific request as outlined herein, and is indicated on and approved as part of the gas well pad site permit and gas well operations permit.

a. No washout pits shall be located within the city.

b. No drill cuttings, rotary mud and wastewater generated during drilling operations may be buried on site.

(32) Private roads and drill sites. Prior to the commencement of any drilling operations, all private roads to be used for access to the drill site and the operation site itself shall be installed and shall be at least 24 feet wide, and shall have an overhead clearance of 14 feet. A standard commercial drive approach meeting the requirements of the city shall be installed at the point of contact with the city street prior to any drilling commencing and an approved concrete drive shall extend for a minimum of 75 feet onto the property from the street within 60 days after production commences. All other private roads on drill sites during the drilling and fracturing stages of a drill site shall be constructed of an approved all-weather hard surface and be maintained to prevent dust, mud and rutting. Requirements for the road surface following drilling operations may be different than those permitted during the drilling operations and may include approved concrete surfaces in certain areas as defined in the approved site plan. All concrete road surfaces specified in the site plan shall be installed within 60 days after the production stage at the site begins. In particular cases these requirements governing surfacing of private roads and the width of the roads may be waived at the discretion of the city engineer with the approval of the fire marshal.

(33) Salt water and disposal wells. No disposal wells shall be located within the city.

(34) Soil sampling. Soil sampling may be required at the discretion of the inspection services provider(s) to determine if soil contamination is present at the site. Soil contamination assessments shall be conducted at the expense of the operator and shall utilize an approved laboratory testing for any increase above the Texas-specific median background concentrations for metals or specific contaminants that might have been present on the site. A minimum of five samples shall be taken and shall include the pit or area of concern as well as the area down grade from the site.

(35) Signs.

a. A sign shall be immediately and prominently displayed at the gate on the fencing erected pursuant to section 40-16 of this chapter. Such sign shall be durable material, maintained in good condition, and, unless otherwise required by the railroad commission, shall have a surface area of not less than two square feet nor more than four square feet and shall be lettered with the following:

1. Well name and number;

2. Name of operator;

3. The emergency 911 number; and

4. Telephone numbers of two persons responsible for the well who may be contacted in case of emergency. These must be current and valid numbers and must be answered 24 hours a day.

b. Permanent weatherproof signs reading “DANGER NO SMOKING ALLOWED” shall be posted immediately upon completion of the well site fencing at the entrance of each well site and tank battery or in any other location approved or designated by the fire marshal of the city. Sign lettering shall be four inches in height and shall be red on a white background or white on a red background. Each sign shall include the emergency notification numbers of the fire department and the operator, well and lease designations required by the railroad commission.

c. No other signs shall be permitted on the site unless specifically required for notifications or safety purposes by the city or other governmental agency or logos and similar company specific signage that is a part of equipment on a site.

(36) Storage of equipment. Onsite storage is prohibited on the operation site. No equipment shall be stored on the drilling or production operation site, unless it is necessary to the everyday operation of the well. Lumber, pipes, tubing and casing shall not be left on the operation site except when drilling or well servicing operations are being conducted on the site.

No vehicle or item of machinery shall be parked or stored on any street, right-of-way or in any driveway, alley or upon any operation site which constitutes a fire hazard or an obstruction to or interference with fighting or controlling fires except that equipment which is necessary for drilling or production operations on the site. The fire marshal or his designee shall be the person that determines whether equipment on the site shall constitute a fire hazard.

No refinery, processing, treating, dehydrating or absorption plant of any kind shall be constructed, established or maintained on the premises. This shall not be deemed to exclude a conventional gas separator or dehydrator.

(37) Storage tanks. All tanks and permanent structures shall conform to the American Petroleum Institute (A.P.I.) specifications and local codes unless the fire marshal approves other specifications. All storage tanks shall be equipped with a secondary containment system approved by the fire marshal. The secondary containment system shall be a minimum of three feet in height and sized to contain one and one-half times the contents of the largest tank and a 25-year, 24-hour rainfall (to be calculated at 12 inches) in accordance with the fire code. The secondary containment system on permanent (production) tanks must be concrete. Temporary tanks may use an earthen berm with an approved plastic, impervious lining material which must be buried at least one foot below the surface of the containment area. Provisions must be made to drain the secondary containment area of accumulations of ground water and rainfall. Secondary containment areas must be routinely drained as necessary. Drip pots shall be provided at the pump out connection to contain the liquids from the storage tank. Tanks and tank installations must also conform to the provisions of any applicable NFPA standard, the fire code in effect at the time of submittal, and site specific requirements imposed by the fire marshal.

Fuel storage tanks and installations, if required on a site, are subject to additional requirements as outlined in the current edition of the fire code as amended. The temporary use of fuel tanks on site is permitted with the approval of the fire marshal and he is authorized to modify the distances outlined in the fire code as amended for the placement of said temporary fuel tanks.

All tanks shall be set back pursuant to the standards of the railroad commission and the National Fire Protection Association, but in all cases, shall be at least 75 feet from any public right-of-way or property line. Each storage tank shall be equipped with a level control device that will automatically activate a valve to close the well in the event of excess liquid accumulation (90 percent capacity) in the tank.

No meters, storage tanks, separation facilities, or other above ground facilities, other than the well head and flow lines, shall be placed in a floodway or the 100-year floodplain.

Tanks must be at least 300 feet from any residence, commercial structure, church, public building, public park, playground or golf course, commercial structure, hospital, school, or combustible structure.

(38) Tank battery facilities. Tank battery facilities shall be equipped with a remote foam application piping system approved by the fire marshal and a lightning arrestor system. The foam system shall be provided with a four-inch storz fdc secured with a locking Knox cap at a location approved by the fire marshal a minimum of 200 feet from the tanks. This distance may be reduced with the approval of the fire marshal if conditions warrant. When required by the fire marshal, on site storage of foam may be required under the conditions as set forth by the fire marshal. All components shall be installed in accordance with nationally recognized standards and shall be properly maintained by the well operator. A fire hydrant may be required by the fire marshal to provide adequate fire fighting water for the tank battery facilities. Fire hydrants shall be placed as designated by the fire marshal.

(39) Surface casing. Surface casing shall be run and set in full compliance with the applicable rules and regulations of the railroad commission.

(40) Valves. Each well must have a shutoff valve to terminate the well's production. The fire department shall have access to the well site to enable it to close the shut-off valve in an emergency. All well heads shall be equipped with an automated valve that closes the well in the event of an abnormal change in operating pressure. All well heads shall contain an appropriately labeled emergency shut off valve to the well distribution line located where it is accessible to the operator and the fire department in an emergency.

(41) Waste disposal. Unless otherwise directed by the railroad commission, all tanks used for storage shall conform to the following:

Operator must use portable or other approved closed steel storage tanks for storing liquid hydrocarbons. Tanks must meet the American Petroleum Institute standards, any applicable NFPA standard, the fire code in effect at the time of submittal, and

site specific requirements imposed by the fire marshal.

All tanks must have a vent line, flame arrester and pressure relief valve. All tanks must be enclosed by a fence applicable to the issued permit classification. No tank battery shall be within 300 feet of any residence, church, public building, public park, playground, or golf course, hospital, commercial structure, or school or other combustible structure.

Drilling mud, cuttings, liquid hydrocarbons and all other field waste derived or resulting from or connected with the drilling, re-working or deepening of any well shall be handled in an approved manner for a closed loop system and under no circumstances shall be placed in a pit or in a disposal well in the city. All disposals must be in accordance with the rules of the railroad commission, this chapter and any other appropriate local, state or federal agency.

Unless otherwise directed by the railroad commission, waste materials shall be removed from the site and transported to an off-site disposal facility not less often than every 30 days. Water stored in on-site tanks shall be removed as necessary.

All waste shall be disposed of in such a manner as to comply with the air and water pollution control regulations of the state, this chapter and any other applicable ordinance of the city.

(42) Watchman. The operator must keep a watchman or security personnel on site during the drilling or re-working of a well when other workmen are not on the premises.

(43) Items not specifically addressed. It is the intent that reasonable safety measures be followed during all phases of the development and production processes at any site in the city. Sites and operations must comply with all federal, state or local laws, regulations and ordinances in effect at the time. Specific safety concerns that are identified during inspection processes must be resolved by the operator in a timely manner.

(b) Well, tank batteries, well facilities, and equipment setbacks. It shall be unlawful to drill any well, the center of which, at the surface of the ground, is located:

(1) Within 100 feet from any outer boundary line of the well site; or

(2) Within 100 feet from any storage tank, or source of ignition; or

(3) Within 75 feet of any public street, road, highway or future street, or right-of-way;

(4) Within 100 feet of a property line; or

(5) Within a minimum of 600 feet from any residence, church, public building, hospital, commercial structure, or school without waiver and shall exceed 600 feet where conditions allow; or

(6) Within 100 feet of any building accessory to, but not necessary to the operation of the well; or

(7) Within 200 feet to any fresh water well. The measurement shall be in a direct line from the closest well bore to the fresh water well bore.

(8) Within 600 feet of a public park, playground or golf course without the prior consent of the city council. this provision is not intended to prevent the drilling of wells within public parks.

The distance shall be calculated from the well bore, in a straight line, without regard to intervening structures or objects, to the closest exterior point of any object listed above with the exception of schools, to which the distance shall be calculated from the well bore, in a straight line, without regard to intervening structure or objects to the closest property line of the school site.

The distances set out in subsections (b)(1), (2), (3), (4), (5), (6), (7) or (8) may be reduced at the discretion of the city council, but never less than 200 feet from any residence, public building or commercial structure without the unanimous consent of the property owners within a 200-foot radius around said well and the affirmative vote of the members of the city council. For protection of the public health, safety and welfare, the city council may impose additional requirements for a reduction of such distance. The reduction of the distance requirement for fresh water wells is subject to the railroad commission regulations and any other state or federal requirements.

Tank batteries, well facilities and equipment shall be located at least 300 feet from any residence, church, public building, hospital, public park, playground or golf course, commercial structure, or school for which a building permit has been issued on the date the application for a drilling permit is filed. The distance shall be calculated from the closest tank batteries, well facilities and/or equipment, in a straight line, without regard to intervening structures or objects, to the building.

Notwithstanding the provisions of this section, new residences, churches, public buildings, commercial structures, hospitals or school buildings may not be built closer than 150 feet from the outside fence or boundary of an existing production gas well site, inclusive of the well, tanks and other appurtenances. Prior to the issuance of any building permit by the city for any structure located within 600 feet of a gas well site, the following notation shall be placed on the deed, plat or site plan for said lot or tract:

“This tract or lot is located less than six hundred feet (600') from an existing oil or gas well and is subject to the Codes and Ordinances of the City of Euless.”

(c) Installation of pipelines on, under or across public property including rights-of-way, parks and similar locations. The operator shall apply to the city for a city council approved agreement to install pipeline(s) on, over, under, along or across the city streets, sidewalks, alley, rights-of-way and other city property for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipelines so long as production or operations may

be continued under any gas well operations permit issued pursuant to this chapter. The operator shall:

Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities located on, under or across the course of such rights-of-way.

(1) Furnish to the planning and development director a plat showing the location of such pipelines.

(2) Construct such lines out of pipe in accordance with the city codes and regulations consistent with Barlow's Formula for proper casing and ventilation.

(3) Grade, level and restore such property to the same surface conditions, as nearly as practicable, as existed when operations for the placement of the pipeline were first commenced.

(4) Comply with all city ordinances. Reference all provisions of article XI of this chapter.

(5) Streets or alleys may not be blocked, encumbered or closed due to any operation unless prior consent is obtained by the city using the street closure process in place through the city engineer.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-16 Fences/screening

(a) Fences/screening. Fences shall not be required on drill sites during initial drilling, completion or re-working operations except as may be specified elsewhere in this chapter as long as 24-hour on-site supervision is provided. A secured entrance gate shall be required. All gates are to be kept locked when the operator or his employees are not within the enclosure. Within 30 days after production has been established, all operation sites shall be completely enclosed by an ornamental iron, steel, or aluminum fence with masonry columns according to the requirements of the gas well operations permit, as follows:

(1) Fencing specifications. The fence shall be at least eight feet in height, but not greater than ten feet.

(2) The fence shall be erected on a structurally sound metal frame set in concrete. Masonry columns must be installed at a maximum of 30 feet on centers, shall be taller than the panels comprising the fence, and shall have decorative caps.

(3) All fencing shall be maintained in a secure and well maintained condition.

(4) Alternative fencing or screening methods may be approved by the city manager or their designee or the city council on a site by site basis as part of the permitting approval process.

(b) Gate specifications. All fences shall be equipped with at least one gate. The gate shall meet the following specifications:

(1) Primary gate opening shall be not less than 20 feet wide. Gate opening requirements may be met by two swing gates or one sliding gate or approved combinations thereof. Alternative gate openings, if provided, may be of a lesser width but not less than 12 feet wide. If two gates are used, gates shall latch and lock in the center of the span; and

(2) The gates shall be provided with a combination catch and locking attachment device for a padlock, and shall be kept locked except when being used for access to the site; and

(3) Operator must provide the fire marshal with a “Knox Padlock” or “Knox Box with a key” to access the well site to be used only in case of an emergency. Knox boxes and Knox locks must be placed in a location and manner approved by the fire marshal.

(c) Landscaping. The planning and development department shall establish requirements regarding specific landscaping requirements as deemed appropriate to the drill site location.

It shall be the responsibility of the operator to maintain the landscaping as identified per the city landscape ordinance.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-17 Cleanup and maintenance

(a) Cleanup after well servicing. After the well has been completed or plugged and abandoned, the operator shall clean the drill site or operation site, complete restoration activities and repair all damage to public property caused by such operations within 60 days.

(b) Cleanup after spills, leaks and malfunctions. After any spill, leak or malfunction, the operator shall remove or cause to be removed to the satisfaction of the fire marshal and the city or its designee all waste materials from any public or private property affected by such spill, leak or malfunction. Clean-up operations must begin immediately. If the operator fails to begin site clean-up within 24 hours, the city shall have the right to contact the railroad commission in order to facilitate the removal of all waste materials from the property affected by such spill, leak or malfunction.

(c) Free from debris. The pad site, production site and all related areas shall at all times be kept free of debris, pools of water or other liquids, contaminated soil, weeds, brush, trash or other waste material including those areas around any separators, tanks and producing wells. The public street entrance and adjacent public streets shall be kept free of mud, dirt, debris, liquids or any other materials which create an unsightly appearance or which pose a hazard to traffic. All such materials shall be removed immediately and measures taken to prevent an unsafe condition from occurring on the roadway. Upon notice from the city of a hazardous street condition caused by the gas well or an operation attached thereto, the operator shall immediately take action to remove the hazardous condition and to prevent a recurrence. The city shall have the authority to remove any mud, debris or other materials that are creating a

hazard to transportation from the public rights-of-ways at the expense of the operator, if the operator is not able to immediately resolve the condition.

(d) Painting. All production equipment shall be painted and maintained at all times, including wellheads, pumping units, tanks, and buildings or structures. When requiring painting of such facilities, the city manager or their designee shall consider the deterioration of the quality of the material of which such facility or structure is constructed, the degree of rust, and its appearance. Paint shall be of a neutral color, compatible with surrounding uses. Neutral colors shall include sand, gray and unobtrusive shades of brown, or other neutral colors approved by the city manager or their designee.

(e) Blowouts. In the event of the loss of control of any well, operator shall immediately take all reasonable steps to regain control regardless of any other provision of this chapter and shall notify the fire department immediately by calling 911 and the inspection services provider(s) as soon as practicable. The inspection services provider(s) shall provide a report in writing, briefly describing the same, to the official designated by the city manager. If the city or the inspection services provider(s), in his opinion, believes that danger to persons and property exists because of such loss of well control and that the operator is not taking or is unable to take all reasonable and necessary steps to regain control of such well, the city or the inspection services provider(s) may then employ any well control expert or experts or other contractors or suppliers of special services, or may incur any other expenses for labor and material which the city or the inspection services provider(s) deems necessary to regain control of such well. The city shall then have a valid lien against the interest in the well of all working interest owners to secure payment of any expenditure made by the city pursuant to such action of the city or the inspection services provider(s) in gaining control of said well.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-18 Plugged and abandoned wells

(a) Surface requirements for plugged and abandoned well. Whenever abandonment occurs pursuant to the requirements of the railroad commission, the operator so abandoning shall be responsible for the restoration of the well site to its original condition as nearly as practicable, in conformity with the regulations of this chapter.

(b) Abandonment shall be approved by the inspection services provider(s) after restoration of the drill site has been accomplished in conformity with the following requirements at the discretion of the inspection services provider(s):

(1) The derrick and all appurtenant equipment thereto shall be removed from drill site;

(2) All tanks, towers, and other surface installations shall be removed from the drill site;

(3) All concrete foundations, piping, wood, guy anchors and other foreign materials regardless of depth, except surface casing, shall be removed from the site, unless otherwise directed by the railroad commission;

(4) All holes and depressions shall be filled with clean, compactable soil;

(5) All waste, refuse or waste material shall be removed from the drill site; and

(6) During abandonment, operator shall comply with all applicable sections in this chapter.

(c) Abandoned well requirement. The operator can only abandon a well if the city manager or their designee has reviewed and approved the abandonment and all appropriate railroad commission and city abandonment requirements have been met. The operator shall furnish the following at the discretion of the inspection services provider(s):

(1) A copy of the approval of the railroad commission confirming compliance with all abandonment proceedings under the state law; and

(2) A notice of intention to abandon under the provisions of this section and stating the date such work will be commenced. Abandonment may then be commenced on or subsequent to the date so stated.

(d) Abandonment requirements prior to new construction. All abandoned or deserted wells or drill sites shall meet the most current abandonment requirements of the railroad commission prior to the issuance of any building permit for development of the property. No structure shall be built over an abandoned well.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE IX. TECHNICAL ADVISOR

Sec. 40-19 Technical advisor

The city may from time to time employ a technical advisor or advisors experienced and educated in the gas industry or the law as it pertains to gas matters. The function of such advisor(s) shall be to advise, counsel or represent the city on such matters relating to gas operations within the city as the city may want or require and the effect thereof, both present and future, on the health, welfare, comfort and safety of the citizens of the city. In the event such technical advisor(s) is employed for the purpose of advising, counseling or representing the city relative to an operator's unique and particular set of circumstances, case or request relating to this chapter, then the cost for such services of such technical advisor(s) shall be assessed against and paid for by such operator in addition to any fees or charges assessed pursuant to this chapter. Prior to the employment of a technical advisor, the city shall inform the operator of the intended scope of work and the estimated costs and expenses. The employment of a technical advisor is subject to approval by the city council.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE X. GAS PIPELINE INSTALLATION

Sec. 40-20 Public right-of-way use agreement requirements

A public right-of-way use agreement shall be required prior to any gas pipeline construction within the city. The public right-of-way use agreement shall include, but is not limited to the following information:

(a) The pipeline company/applicant/operator name, phone number, fax number, physical address, and, if possible, email address; if the operator is a corporation, the state of the incorporation, and if the operator is a partnership, the names and addresses of the general partners shall be provided.

(b) Detailed mapping of location and extent of proposed use within public right-of-way.

(c) A traffic safety and management plan as required by the public works department.

(d) Bonds in the amount of the cost of work or $50,000.00, whichever amount is greater. Such bonds shall guarantee:

(1) The faithful performance and completion of all construction, maintenance, removal or repair work in accordance with the contract between pipeline company and the contractor;

(2) Full payment for all wages for labor and services and of all bills for materials, supplies and equipment used in the performance of that contract;

(3) That pipeline company shall restore the right-of-way affected by such cut, opening, or other excavation in a satisfactory and workmanlike manner; and

(4) Maintain such restoration work in a state of repair satisfactory to the city for a period of two years following the date the city approves the restoration; and fully comply with the city's ordinances governing excavation in the public right-of-way. If the pipeline company meets its obligations under this section, the city shall return the bond to the pipeline company upon expiration of the two-year period. The bonds shall name both the city and pipeline company as dual obliges.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.1 Fees and payments to city

The following fees shall be due to the city prior to any pipeline construction.

(a) Application fee. Company shall pay the city an application fee. This fee shall be collected at the time company applies for a permit to construct gas pipelines within the city.

(b) Right-of-way use fee. The pipeline company shall pay a right-of-way use fee. This fee shall be collected on or prior to the effective date of the agreement, and annually thereafter, company shall pay the city as compensation for its use of the public right-of-way for the term of this agreement in a "per linear foot fee" based on the linear foot of gas pipeline proposed to be constructed within the city.

(c) Construction plan review fee. The pipeline company shall pay a construction plan review fee. This fee shall be collected on or prior to constructing any gas pipelines within the city for gas pipeline construction plan review.

(d) Inspection fee. The pipeline company shall pay an inspection fee. This fee shall be collected on or prior to constructing any gas pipelines within the city for inspection of gas pipeline construction.

(e) Other payments and interest. In addition to the above referenced fees, the pipeline company shall pay the city all sums which may be due the city for property taxes, license fees, permit fees, or other taxes, charges or fees that the city may from time to time impose on all other similarly situated entities within the city.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.2 Regulatory authority of the city

A pipeline company's property and operations hereunder shall be subject to such regulation by the city as may be reasonably necessary for the protection or benefit of the general public. In this connection, the pipeline company shall be subject to, governed by and shall comply with all applicable federal, state and local laws, including all ordinances, rules and regulations of the city, as same may be adopted and amended from time to time.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.3 Use of public rights-of-ways

The city has the right to control and regulate the use of the public right-of-way, public places and other city owned property and the spaces above and beneath them. Company shall comply with all applicable laws, ordinances, rules and regulations, including, but not limited to, city ordinances, rules and policies related to construction permits, construction bonds, permissible hours of construction, operations during peak traffic hours, barricading requirements and any other construction rules or regulations that may be promulgated from time to time.

(a) Pipelines shall not be erected, installed, constructed, repaired, replaced or maintained in any manner that places an undue burden on the present or future use of the public right-of-way by the city and the public. If the city reasonably determines that the pipeline does place an undue burden on any portion of the public right-of-way, the pipeline company, at the pipeline company's sole cost and expense and within a reasonable time period specified by the city, shall modify the pipeline or take other actions reasonably determined by the city to be in the public interest to remove or alleviate such undue burden.

(b) Prior to the undertaking of any kind of construction, installation, maintenance, removal, repairs or other work that requires the excavation, lane closure or other physical use of the public right-of-way, the pipeline company shall, except for work required to address an emergency, provide at least 48-hours' advance written notice to the owners of property adjacent to the public right-of-way that will be affected. In

the case of emergencies, the pipeline company shall provide notice to the affected landowners within 24 hours after commencement of work.

(c) During any such work, the pipeline company shall provide construction and maintenance signs and sufficient barricades at work sites to protect the public. The use of such traffic-control devices shall be consistent with the standards and provisions of part VI of the Texas Manual on Uniform Traffic-control Devices. The pipeline company shall utilize appropriate warning lights at all construction and maintenance sites where one or more traffic lanes are closed or obstructed during nighttime conditions. The pipeline company shall plan and execute construction of the pipeline so that no flood conditions are created or worsened on the surrounding land. To minimize erosion, the excavated portion of the right-of-way adjacent to the improved portion of the road shall be restored and re-vegetated in a manner approved by the city.

(d) The pipeline company shall bury or have buried its pipeline facilities at least four feet except underneath public roads. Underneath public roads, the pipeline company's pipeline facilities shall be at least seven feet below the lowest point in such road pavement. When pipeline facilities cannot be bored, during backfill of the pipeline excavation, "buried pipeline" warning tape shall be buried one foot above the pipeline to warn future excavators of the presence of the pipeline. Any deviation to the minimum depth requirement must be approved in writing by the city engineer.

(e) Isolation valves. The number and location of isolation valves on the pipeline shall be approved by the city and clearly indicated on the construction plans.

(f) Marking of pipeline. The pipeline shall be marked, in a manner that is reasonably acceptable to the city and the inspection services provider(s), to show conspicuously the pipeline company's name, a toll-free telephone number of company that a person may call for assistance, and the appropriate Texas One Call System telephone number. Other provisions notwithstanding, an identifying sign shall be placed at each point where a flow line or gathering line crosses a public street or road.

(g) Pavement cut coordination and additional fees. The city shall have the right to coordinate all excavation work in the public right-of-way in a manner that is consistent with and convenient for the implementation of the city's program for street construction, rebuilding, resurfacing and repair. To preserve the integrity of the public right-of-way, the pipeline company shall not cut, excavate or otherwise breach or damage the surface of any paved public right-of-way within 96 months following the construction or resurfacing of said public right-of-way unless the pipeline company obtains written consent from the director of public works, which consent shall not be unreasonably withheld, pays an additional fee agreed to by and between the parties, and restores the public right-of-way in accordance with the right-of-way use agreement.

(h) Restoration of public right-of-way and property. The pipeline company, at the pipeline company's sole cost and expense, and in a manner approved by the city, shall promptly restore any portion of the public right-of-way, city owned property or

other privately owned property that are in any way disturbed or damaged by the construction, operation, maintenance or removal of any of the pipeline to, at pipeline company's option, as good or better a condition as such property was in immediately prior to the disturbance or damage. The pipeline company shall diligently commence such restoration within 30 calendar days following the date the pipeline company first became aware of the disturbance or damage or, if the pipeline is being removed, within 30 calendar days following such removal. Any private service/utility lines that are in any way disturbed or damaged by the pipeline company's construction, operation, maintenance or removal of any of the pipeline, shall be repaired at the pipeline company's sole cost and expense within 24 hours.

(i) Relocation of pipeline. Within 45 calendar days following a written request by the city, the pipeline company, at the pipeline company's sole cost and expense, shall protect, support, disconnect, alter or remove from the public right-of-way all or any portion of its pipeline due to street or other public excavation, construction, repair, grading, regarding or traffic conditions; the installation of sewers, drains, water pipes or municipally-owned facilities of any kind; the vacation, construction or relocation of streets or any other type of structure or improvement of public agency; any public work; or any other type of improvement necessary, in the city's sole discretion, for the public health, safety or welfare. If the pipeline company reasonably requires more than 45 days to comply with the city's written request, it shall notify the city manager in writing within ten days of receiving notice and the city will work in good faith with the pipeline company to negotiate a workable time frame. Any relocation will require that the public works department, at the pipeline company's expense, approve the pipeline company's plans. It is the desire of both parties to determine such relocation within the existing public right-of-way.

(j) Emergencies.

(1) Work by the city. A public emergency shall be any condition which, in the reasonable opinion of the officials specified herein, poses an immediate threat to life, health or property and is caused by any natural or manmade disaster, including, but not limited to, storms, floods, fires, accidents, explosion, water main breaks and hazardous materials spills. In the event of a public emergency, the city shall have the right to take whatever action is deemed reasonably appropriate by the city manager or fire chief, or their authorized representatives, including, but not limited to, action that may result in damage to the pipeline, and company hereby:

a. Releases the city, its officers, agents, servants, employees and subcontractors from liability or responsibility for any damages that may occur to the pipeline or that the pipeline company may otherwise incur as a result of such necessary response; and

b. Agrees that the pipeline company, at the pipeline company's sole cost and expense, shall be responsible for the repair, relocation or reconstruction of all or any of its pipeline that is affected by such action of the city. In responding to a public emergency, the city agrees to comply with all local, state and federal laws, including, without limitation, any

requirements to notify the Texas One Call System, to the extent that they apply at the time and under the circumstances. In addition, if the city takes any action that it believes will affect the pipeline, the city will notify the pipeline company as soon as practicable so that company may advise and work with the city with respect to such action.

c. Work by or on behalf of the pipeline company. In the event of an emergency that directly involves any portion of the pipeline and necessitates immediate emergency response work on or repairs, the pipeline company may initiate the emergency response work or repairs or take any action required under the circumstances provided that the pipeline company notifies the city as promptly as possible. After the emergency has passed, the pipeline company shall apply for and obtain a construction permit from the city and otherwise fully comply with the requirements of the right-of-way use agreement.

(k) Removal of pipeline.

(1) Pipeline company obligated to remove. Upon the revocation, termination or expiration without extension or renewal of an agreement, the pipeline company's right to use the public right-of-way under the agreement shall cease and the pipeline company shall immediately discontinue the transportation of gas in or through the city. Within six months following such revocation, termination or expiration and if the city requests, the pipeline company at the pipeline company's sole cost and expense, shall remove the pipeline from the public right-of-way (or cap the pipeline, if consented to by the city), in accordance with applicable laws and regulations.

(2) City's right to remove. If the pipeline company has not removed all of the pipeline from the public right-of-way (or capped the pipeline, if consented to by the city) within six months following revocation, termination or expiration of an agreement, the city may deem any portion of the pipeline remaining in the public right-of-way abandoned and, at the city's sole option:

a. Take possession of and title to such property; or

b. Take any and all legal action necessary to compel company to remove such property; provided, however, that company may not abandon its facilities or discontinue its services within the city without the approval of the commission or successor agency or any other regulatory authority with such jurisdiction.

(3) Restoration of property. Within six months following revocation, termination or expiration of an agreement, the pipeline company shall also restore any property, public or private, that is disturbed or damaged by removal (or, if consented to by the city, capping) of the pipeline. If the pipeline company has not restored all such property within this time, the city, at the city's sole option, may perform or have performed any necessary restoration work, in which case the pipeline company shall immediately reimburse the city for any and all

reasonable costs incurred in performing or having performed such restoration work.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.4 As-built plans and maps

The pipeline company, at the pipeline company's sole cost and expense, shall provide the city with as-built plans of all portions of the pipeline located in the city showing such pipeline within 90 calendar days following the completion of such pipeline. The city manager or their designee may grant one extension, if requested in writing, for a specific number of days by the pipeline company. The pipeline company shall supply the textual documentation of such as-built plans and maps in computer format as requested in writing by the city and shall otherwise fully cooperate with the city in ensuring that the pipeline is accurately reflected in the city's mapping system. Scans or image files of the final drawing sealed by the designing engineer or other approved professional in a file format approved by the city's GIS department must be provided.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.5 Liability and indemnification

(a) Liability of pipeline company. The pipeline company shall be liable and responsible for any and all damages, losses, liabilities (joint or several), payments, obligations, penalties, claims, litigation, demands, defenses, judgments, lawsuits, proceedings, costs, disbursements or expenses (including, without limitation, fees, disbursements, and reasonable expenses of attorneys, accountants, and other professional advisors, and of expert witnesses and costs of investigation and preparation) of any kind or nature whatsoever (collectively "damages"), which may arise out of or be in any way connected with:

(1) The construction, installation, operation, maintenance or condition of the pipeline or any related facilities or appurtenances;

(2) The transportation of gas through the pipeline;

(3) Any claim or lien arising out of work, labor, materials or supplies provided or supplied to the pipeline company, its contractors or subcontractors with respect to the pipeline; or

(4) Company's failure to comply with any applicable federal, state or local law, ordinance, rule or regulation, except to the extent directly caused by the gross negligence or intentional misconduct of the city.

(b) Indemnification. The pipeline company, at its sole cost and expense shall indemnify and hold harmless the city, its officers, boards, commissions, agents, employees, and volunteers ("indemnitees"), from and against any and all damages which may arise out of or be in any way connected with:

(1) Pipeline company's construction, installation, operation, maintenance or condition of the pipeline or any related facilities or appurtenances;

(2) The transportation of gas through the pipeline;

(3) Any claim or lien arising out of work, labor, materials or supplies provided or supplied to the pipeline company, its contractors or subcontractors; or

(4) Pipeline company's failure to comply with any applicable federal, state or local law, ordinance, rule or regulation, acts; or

(5) The negligent act or omission(s) of the city, its officers and employees.

(c) Assumption of risk. The pipeline company hereby undertakes and assumes, for and on behalf of the pipeline company, its officers, agents, contractors, subcontractors, agents and employees, all risk of dangerous conditions, if any, on or about any city-owned or city-controlled property, including, but not limited to, the public right-of-way.

(d) Defense of indemnitees. If an action is brought against any indemnitee by reason of any matter for which the indemnitees are indemnified hereunder, the city shall give the pipeline company prompt written notice of the making of any claim or commencement of any such action, lawsuit or other proceeding, and pipeline company, at its sole cost and expense, shall resist and defend the same with reasonable participation by the city and with legal counsel selected by the pipeline company and specifically approved by the city. In such an event, the pipeline company shall not admit liability in any matter on behalf of any indemnitee without the advance written consent of the city.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.6 Insurance

The pipeline company shall procure and maintain at all times, in full force and effect, a policy or policies of insurance to provide coverage's as specified herein, naming the city as an additional insured and covering all public risks related to the use, occupancy, condition, maintenance, existence or location of the public right-of-way and the construction, installation, operation, maintenance or condition of the pipeline including the transportation of gas through the pipeline, as follows:

(a) Primary liability insurance coverage.

(1) Commercial general liability: $5,000,000.00 per occurrence, including coverage for the following:

a. Premises liability

b. Independent contractors

c. Products/completed operations

d. Personal injury

e. Contractual liability

f. Explosion, collapse and underground property damage

(2) Property damage liability: $1,000,000.00 per occurrence.

(3) Automobile liability: $1,000,000.00 per accident, including, but not limited to, all owned, leased, hired or non-owned motor vehicles used in conjunction with the rights granted under this agreement.

(4) Worker's compensation: As required by law; and, employer's liability as follows: $1,000,000.00 per accident.

(b) Requirements and revisions to required coverage. The city may, not more than once every five years during the term of the right-of way use agreement, revise insurance coverage requirements and limits required by the right-of-way use agreement. The pipeline company shall agree that within 90 days of receipt of written notice from the city, the pipeline company will implement all such revisions reasonably requested by the city. The policy or policies of insurance shall be endorsed to provide that no material changes in coverage, including, but not limited to, cancellation, termination, non-renewal or amendment, shall be made without 30 days prior written notice to the city. The policies and certificate of insurance provided to the city shall contain the following language:

"CANCELLATION CLAUSE

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREFORE, THE ISSUING INSURER WILL PROVIDE THIRTY (30) DAYS WRITTEN NOTICE TO THE NAMED CERTIFICATE HOLDER."

(c) Underwriters and certificates. The pipeline company shall procure and maintain its insurance with underwriters authorized to do business in the State of Texas and who are reasonably acceptable to the city in terms of solvency and financial strength. Within 30 days following adoption of the right-of-way use agreement by the city council, the pipeline company shall furnish the city with certificates of insurance signed by the respective companies as proof that it has obtained the types and amounts of insurance coverage required herein. No construction shall commence until such certificates are received. In addition, the pipeline company shall, on demand, provide the city with evidence that it has maintained such coverage in full force and effect.

(d) Deductibles. Deductible or self-insured retention limits on any line of coverage required herein shall not exceed $50,000.00 in the annual aggregate unless the limit per occurrence or per line of coverage, or aggregate is otherwise approved by the city.

(e) No limitation of liability. The insurance requirements set forth in this section and any recovery by the city of any sum by reason of any insurance policy required under the

right-of-way use agreement shall in no way be construed or affected to limit or in any way affect the pipeline company's liability to the city or other persons as provided by the right-of-way use agreement or law.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-20.7 Provision of information

(a) Filings with commission. The pipeline company shall, upon request, provide copies to the city of all documents which the pipeline company files with or sends to the railroad commission concerning or related to its transportation of gas through or other operations in the city, including, but not limited to, filings related to:

(1) Rules, regulations and policies requested, under consideration or approved by the commission; and

(2) Applications and any supporting pre-filed testimony and exhibits filed by pipeline company or third parties on behalf of the pipeline company, on the same date as such filings are made with the railroad commission. In addition, the pipeline company shall provide the city with copies of records, documents and other filings that the pipeline company is required to maintain or supply to the railroad commission under any applicable state or federal law, rule or regulation.

(b) Lawsuits. The pipeline company shall provide the city with copies of all pleadings in all lawsuits to which company is a party and that pertain to the granting of this agreement and/or the transportation of gas through the city within 30 days of the pipeline company's receipt of same.

(Ord. No. 1852, § 1, 6-23-09)

ARTICLE XI. APPEALS AND PENALTY

Sec. 40-21 Appeals

(a) The city council shall have and exercise the power to hear and determine appeals where it is alleged there is error or abuse of discretion regarding the issuance of a gas well pad site or gas well operations permit or the revocation or suspension of any gas well pad site or gas well operations permit issued hereunder. Any person or entity whose application is denied by the city manager or their designee other than for distance requirements set out in this chapter) or whose gas well pad site or gas well operations permit is suspended or revoked or whose well or equipment is deemed by the city or its designee to be abandoned may, within 30 days of the date of the written decision of the city, file an appeal to the city council in accordance with the following procedure:

(1) An appeal shall be in writing and shall be filed in triplicate with the official designated by the city manager. The grounds for appeal must be set forth specifically, and the error described, by the appellant.

(2) Within 45 days of receipt of the records, the official designated by the city manager shall transmit all papers involved in the proceeding, place the matter on the city council agenda for hearing and give notice by mail of the time, place and purpose thereof to appellant and any other party who has requested in writing to be so notified. No other notice need be given.

Appeal fees shall be required for every appeal in the amount as defined in the city fee schedule.

(Ord. No. 1852, § 1, 6-23-09)

Sec. 40-22 Penalty

(a) It shall be unlawful and an offense for any person to do the following:

(1) Engage in any activity not permitted by the terms of a gas well pad site or gas operations permit issued under this chapter;

(2) Fail to comply with any condition set forth in a gas well pad site or gas operations permit issued under this chapter; or

(b) Violate any provision or requirement set forth in this chapter.

(Ord. No. 1852, § 1, 6-23-09)

CHAPTER 41
RESERVED

CHAPTER 42
HEALTH AND SANITATION*(47)

ARTICLE I. FOOD ESTABLISHMENTS

Division I. General

Sec. 42-1 Purpose

The purpose of these rules is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

(Ord. No. 1524, 3-26-02)

Sec. 42-2 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings as ascribed to them in this section, except where the context clearly indicates a different meaning:

Adulterated food: A food containing any poisonous or deleterious substance as specified in the Texas Health and Safety Code, Chapter 431, § 431.081.

Approved: Acceptable to the regulatory authority based on a determination of conformity with principles, practices, and generally recognized standards that protect public health.

Beverage: A liquid for drinking, including water.

Building official: Is the officer or other designated authority charged with the administration and enforcement of this Code, or the building official's duly authorized representative.

Consumer: A person who is a member of the public, purchases and takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

Department: The Texas Department of Health.

Easily cleanable: A characteristic of a surface that allows effective removal of soil by normal cleaning methods; is dependent on the material, design, construction, and installation of the surface; and varies with the likelihood of the surface's role in introducing pathogenic or toxigenic agents or other contaminants into food based on the surface's approved placement, purpose, and use.

Employee: Any person manufacturing, packaging, producing, processing, storing, selling, offering for sale, vending, preparing, serving, or handling any food in a food establishment.

Food: A raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or for sale in whole or in part for human consumption, or chewing gum.

Food establishment: An operation that stores, prepares, packages, serves, or otherwise provides food for human consumption such as: a food service establishment; retail food store; satellite or catered feeding location; catering operation, if the operation provides food directly to a consumer or to a conveyance used to transport people; market; remote catered operations; conveyance used to transport people; institution; or food bank; and that relinquishes possession of food to a consumer directly, or indirectly through a delivery service such as home delivery of grocery orders or restaurant takeout orders, or delivery service that is provided by common carriers.

Food handler: Any person who prepares, serves, packages or handles open food or drink, or who handles clean utensils, pots, pans, or single-service items.

Health services: City of Euless Health Department (Code Services).

Nonprofit facility:

(1) All government entities and political subdivisions and public school districts.

(2) Organizations chartered under the Texas non-profit corporation act.

(3) Operations exempted by Internal Revenue Code Section 501C.

Mobile food establishment: A vehicle mounted food establishment designed to be readily moveable. (includes a push cart)

Packaged: Bottled, canned, cartoned, securely bagged, or securely wrapped, whether packaged in a food establishment or a food processing plant. The term does not include a wrapper, carryout box, or other non-durable container used to containerize food with the purpose of facilitating food protection during service and receipt of the food by the consumer.

Permit: The document issued by the regulatory authority that authorizes a person to operate a food establishment.

Permit holder: The entity that is legally responsible for the operation of the food establishment such as the owner, the owner's agent, or other person; and who possesses a valid permit to operate a food establishment.

Person in charge: The individual present at a food establishment who is responsible for the operation at the time of inspection.

Temporary food establishment: A food establishment that operates for a period of no more than three consecutive days in conjunction with a single event or celebration no more than twice a year.

Vending machine: A self-service device that, upon insertion of a coin, paper currency, token, card, or key, dispenses unit servings of food in bulk or in packages without the necessity of replenishing the device between each vending operation.

(Ord. No. 1524, 3-26-02)

Secs. 42-3–42-5 Reserved

Division 2. Amendments/Administration

Sec. 42-6 Amendment standards

The enforcement of this article shall be regulated in accordance with the Texas Department of Health, Bureau of Food and Drug Safety, Retail Foods Division "Texas Food Establishment Rules 25 TAC" 229.161-229.171, 229-173-229.175, The Texas Food, Drug and Cosmetic Act" (Vernon's Texas Health and Safety Codes Chapter 431), and "Texas Sanitation and Health Protection Law" (Vernon's Texas Health and Safety Code Chapter 341), a copy of which shall be on file in the office of the city secretary.

(Ord. No. 1524, 3-26-02)

Cross reference–Businesses, ch. 18.

State law reference–Food regulations, V.T.C.A., Health and Safety Code §§ 431.001-438.061.

Sec. 42-7 Food handler card required

(a) Every food service employee shall within 30 days of the date of employment, be the holder of a current valid food handler card, issued by the City of Euless Health Services.

(b) No person who owns, manages or otherwise controls any food service establishment shall permit any food service employee to come in contact with any defined food related areas if the employee does not within 30 days after employment possess a current valid food handler card issued by the City of Euless Health Services.

(c) Every food service or food establishment shall have available on the premises at all times the food handling card of each employee for inspection, and if requested, shall provide the City of Euless Health Services with documentation of the date of employment of any employee of the establishment.

(d) Temporary food service establishments operated in conjunction with a special event shall be exempt from this required food handler's card.

(e) Every card issued shall remain effective for a period of two years and may be renewed upon successful completion of additional approved refresher courses and payment of renewal fees. Food handler cards are the property of the person named thereon and must be returned by employers to such person upon cessation of employment.

(Ord. No. 1524, 3-26-02)

Sec. 42-8 Food handling class required-Food handler card

In order to receive a food handler card, every person owning, employed by, or otherwise connected with a food establishment whose work brings him/her into contact with food, utensils or food service equipment shall be required to attend a food handling class held by the City of Euless Health Services before a food handler card will be issued. An approved food management protection training program as required by chapter 438, subchapter D, Texas Health and Safety Code, as amended, may be substituted for the course provided by the City of Euless Health Services.

(Ord. No. 1524, 3-26-02)

Sec. 42-9 Food establishments permits required

(a) No person shall operate a food establishment without a current, valid food establishment permit issued by the City of Euless Health Services.

(b) A separate permit shall be required for every food establishment with separate and distinct facilities and operations, whether situated in the same building or at separate locations. Separate and distinct lounge operations within a food establishment that are in addition to food operations require a separate permit. (Inclusive of bars, deli(s) or like businesses)

(c) Permits issued under the provisions of this article are not transferable. A permit shall be valid for the period of time shown on the face of the permit, unless earlier suspended or revoked by the regulatory authority.

(d) The application for a new or a renewed permit shall be made on an application form prescribed by the regulatory authority.

(e) The application shall require the applicant's name, type of business organization, the name and address of the owner or principal officer of the business, the nature of the business, the location of the business, and such other information as the regulatory authority deems necessary.

(f) Applications for permits for mobile food units or temporary event establishments which operate from a fixed food facility located outside of the city shall have correct truck registration, insurance, and valid/current drivers license information for each vehicle and each driver.

(g) A temporary food/event establishment permit shall be required and daily inspections shall be required.

(h) Health services shall not renew an expiring or expired permit until the owner or operator of the food establishment provides proof of compliance with current minimum health requirements.

(i) Upon change of ownership of a business, the new owner shall be required to meet current food establishment standards as defined in this Code and state law before a permit will be issued by the health services.

(j) The following types of establishments are exempt from the requirements of this article:

(1) Group homes;

(2) Establishments selling only commercially packaged, non-potentially hazardous foods;

(3) Vending machines;

(4) Facilities operated by nonprofit organizations for their members, families, and invited guests. Facilities are not exempt when food service is provided in conjunction with a child care facility, retirement center, hospital, school, indigent feeding program or public fundraising events; and

(5) Private schools that do not have a kitchen.

(k) Criminal offenses.

(1) A person commits an offense if the person knowingly owns, operates, or is in control of a food establishment that is operating without a valid food permit.

(2) A person commits an offense if the person owns or operates a food establishment and knowingly fails to post and maintain a permit.

(Ord. No. 1524, 3-26-02)

Sec. 42-10 Classification of permits

(a) Food establishment permits shall be classified according to the duration of operation and location of such operation.

(b) The duration of a permit shall fall within one of three categories; annual, temporary, or seasonal, as follows:

(1) Annual. An establishment that operates throughout the year.

(2) Temporary. An establishment that operates three consecutive days/or fewer, in conjunction with a special event no more than two times a year.

(3) Seasonal. An establishment that operates no more than 12 weekends per year, and not associated with a special event. The establishment shall be issued one permit per year, with permission from primary business location and operate as secondary only to primary business location with current and valid certificate of occupancy and during normal business hours. No seasonal permits shall be issued for any residential zones.

(c) The location classification of a permit shall fall within one of two categories, either fixed or mobile, as follows:

(1) Fixed food establishments.

a. Food service establishment-Restaurants, cafeterias, snack bars, bakeries, snow cone stands, caterer's commissaries, private school cafeterias, halfway house food services, hospital kitchens/cafeterias, institutional food services, etc., where food is prepared and served.

b. Retail food stores handling prepackaged, potentially hazardous foods.

c. Retail food stores handling, processing or selling open foods.

d. Food warehouses/wholesalers.

e. Bars/lounges.

(2) Mobile food units.

a. Retail food unit handling prepackaged food.

b. Retail food unit (including trailers, mobile barbecues, snow cone units, etc.) handling, processing or selling open food. A separate permit is required for each different type of mobile unit owned or operated by an individual or company.

c. Any person or firm who operates a mobile food unit or a mobile food establishment as defined in this article shall not operate such establishment within one block of any block containing an elementary or junior high school.

d. Only food items previously approved by the regulatory authority may be sold on a mobile food unit. Non-food items such as toys, fireworks, or any hazardous substances such as stink bombs are prohibited.

(Ord. No. 1524, 3-26-02)

Sec. 42-11 Permits-Authority to issue

The regulatory authority or his designee is hereby authorized to issue permits to any person or firm making application for a food establishment permit, food handler permit, mobile food establishment or a temporary food establishment permit in the city; provided that only a person or firm that complies with the requirements of this article shall be entitled to receive and retain such permit.

(Ord. No. 1524, 3-26-02)

Sec. 42-12 Permits-Application

(a) Application for such permit as required by this article in subsection 42-9(a) shall be made in writing to the regulatory authority or his designee upon forms prescribed and furnished by the City of Euless Health Services.

(b) A food establishment permit plan review fee shall be due for each food establishment that requires plans to be submitted according to section 42-13 of this chapter.

(c) A food establishment permit application fee shall be due for each food establishment that requires a new food establishment permit due to change of ownership, change in type of operation, or revocation, and a new application shall be made for a permit as required by subsection 42-9(a) of this article. Whenever a new food establishment permit is required, the regulatory authority shall inspect the food establishment prior to beginning operation to determine compliance with requirements of this article.

(d) Failure to provide all required information, or falsifying information required on the application, may result in denial or revocation of the permit.

(Ord. No. 1524, 3-26-02)

Sec. 42-13 Review of plans

(a) Submission of plans. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the City of Euless Building Department for review and approval before construction, remodeling or conversion is to begin. The plans and specifications shall indicate the proposed layout, arrangement, mechanical plans and construction materials of

work areas, and the type and model of proposed fixed equipment and facilities. The building department shall approve the plans and specifications if they meet the requirements of these rules. No food service establishment shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the building department.

(b) Pre-operational inspection. Whenever plans and specifications are required by subsection (a) of this section to be submitted to the building department, the building department shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements to these rules.

(Code 1974, § 8-89)

(Ord. No. 1524, 3-26-02)

Sec. 42-14 Posting of food establishment and temporary food establishment permits

Every permit holder or person in charge shall at all times have available on display in public view the food establishment permit, mobile food establishment permit, or temporary food establishment permit.

(Ord. No. 1524, 3-26-02)

Sec. 42-15 Permits-Duration

(a) Any food establishment permit or mobile food permit granted under the provision of subsection 42-9(a) of this article shall remain in full force and effect 12 months from the date of issuance as long as the annual food establishment permit fee is paid and unless said permit is denied, suspended or revoked for cause. A food establishment permit that lapses for non-payment of the annual food establishment permit fee will be re-instated upon payment of a re-instatement fee, except that permits lapsed for more than three (3) months may not be re-instated.

(b) An exception to paragraph (a) above is that a temporary food establishment permit shall remain in full force and effect for a period of time not more than three consecutive days from date of issuance in conjunction with a single event or celebration unless suspended or revoked for cause.

(Ord. No. 1524, 3-26-02)

Sec. 42-16 Permits-Non-transferable

Every permit issued under the provisions of this article shall be non-transferable, non-refundable, and at regulatory authority discretion. A food establishment or temporary food establishment permit shall permit the operation of the establishment only at the location, for the type of food service, and for the permit holder for which granted.

(Ord. No. 1524, 3-26-02)

Sec. 42-17 Inspection frequency

(a) An inspection of a food service establishment shall be performed at least twice annually and shall be prioritized based upon assessment of a food establishment's compliance and potential of causing food borne illness according to Section 229.171 (h) of the Texas Food Establishment Rules.

(b) Additional inspections of the food establishment shall be performed as often as necessary for the enforcement of this article.

(Ord. No. 1524, 3-26-02)

Sec. 42-18 Inspections regulations

(a) Health services may enter premises or vehicles regulated by this article at all reasonable times whenever it is necessary to make an inspection to enforce any of the provisions of this article or other laws regulating food, to inspect permits, certificates, and other records required by this article and state and federal laws regulating food, to collect samples of food and other substances as may be necessary for the detection of unwholesomeness or adulteration, or whenever probable cause exists to believe that a violation of this article or other laws regulating food exists.

(b) Health services shall first present credentials and require entry if the premises are occupied. If the premises are unoccupied, the inspector shall first make a reasonable attempt to locate the owner, operator or other person in control of the premises and require entry.

(c) If entry is denied or if a person in control cannot be located, the regulatory authority shall have every recourse provided by law to secure entry, including obtaining a search warrant.

(Ord. No. 1524, 3-26-02)

Sec. 42-19 Examination and condemnation of food generally

Food may be examined or sampled by health services as often as necessary for enforcement of these rules. Health services, upon written notice to the owner or person in charge specifying with particularity the reasons therefore, may place a hold order on any food which it believes is in violation of Texas Food Establishment Rules 25 TAC Section 229.164, or any other provision of these rules. Health services shall tag, label, or otherwise identify any food subject to the hold order.

No food subject to a hold order shall be used, served, or moved from the establishment. Health services shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state that a request for hearing may be filed within ten days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of these rules.

(Ord. No. 1524, 3-26-02)

Sec. 42-20 Procedure when infection is suspected

When the health services has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

(1) The immediate exclusion of the employee from all food service establishments;

(2) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, no further danger of disease outbreak exists;

(3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease; and

(4) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges.

(Ord. No. 1524, 3-26-02)

Sec. 42-21 Remedies

(a) Penalties. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount of not less than $25.00 nor more than the maximum provided in section 1-12 of this Code for violations of provisions governing public health and sanitation for each offense. Each day that such violation shall continue shall be deemed a separate and distinct offense and shall be punished as such.

(b) Injunctions. The regulatory authority may seek to enjoin violations of these rules.

(Ord. No. 1524, 3-26-02)

Sec. 42-22 Additional requirements for mobile ice cream vendors and other vehicles vending products to children

(a) Additional requirement for issuance of permit.

(1) All drivers of ice cream trucks and other vehicles vending products to children shall submit a copy of their commercial driver's license to the city and obtain the permit described in this article before operating such vehicle. A commercial driver's license is required.

(2) All permit applicants shall provide proof of automobile insurance according to state law along with the application.

(3) All applicants shall be subject to a criminal history background check, and shall consent to such check as a condition of application. A conviction for any offense involving actual or attempted homicide, kidnapping, assault or assaultive offenses, unlawful sexual conduct or assault, theft (including robbery or burglary), prostitution or obscenity shall be grounds for disqualification of an applicant.

(b) Safety equipment for ice cream trucks.

(1) Signs stating "WATCH FOR CHILDREN" must be provided on the front, back, and both sides of the vehicle in at least four inch letters of contrasting colors.

(2) The company name, address, and phone number must be on both sides of the vehicle in at least three-inch letters of contrasting colors.

(3) A serving window, capable of being closed when not in use, must be provided and must be located on the curbside only.

(4) Left and right outside rear view mirrors as well as two additional outside wide-angle mirrors on the front and back of the vehicle must be provided to enable the driver to see around the entire vehicle.

(5) Operable yellow or amber flashing hazard lights that are clearly visible not less than 100 yards from the mobile unit under average daylight conditions shall be provided. Such lights shall be mounted no more than 12 inches below the roof of the mobile unit. No fewer than two lights shall be visible from each approach.

(6) A rear bumper cover shall be installed to prevent children from standing or jumping on the rear of the vehicle.

(c) Vending requirements for mobile ice cream vendors.

(1) Location.

a. Mobile ice cream trucks are permitted to vend in an area for no more than 15 minutes, then they must move to another location.

b. Mobile ice cream vending is prohibited within city parks.

c. Mobile ice cream trucks shall not vend within one block of any block containing an elementary or junior high school during school hours or within one hour before or after school hours on a day that school is scheduled to be in session.

d. Mobile ice cream trucks shall not vend within 100 feet from an intersection.

(2) Hours of operation. Mobile ice cream vending may only occur from 10:00 a.m. to one-half hour before sunset.

(3) Use of sound equipment.

a. Use of sound equipment shall be limited to music or human speech.

b. Sound shall not be audible more than 100 yards from the truck. Sound shall be produced at no more than 80 dBA.

c. Sound equipment may only be used from 10:00 a.m. until one-half hour before sunset.

d. Sound shall not be broadcast within 100 yards of schools during school hours while school is in session, or within 100 yards of hospitals, churches, courthouses, funeral homes, or cemeteries.

e. Sound shall be turned off while the vehicle is stopped for vending.

(4) Safety precautions.

a. Drivers shall check around the vehicle before leaving the area to ensure that children are not remaining. When handing the purchased product to the children, drivers shall make certain traffic is clear, in case a child leaves the truck immediately and fails to observe the hazard of oncoming traffic.

b. Child customers shall not be allowed inside the vehicle. This provision shall not apply to children related to the driver within the third degree of consanguinity or affinity, while riding with the driver along the sales route.

(Ord. No. 1524, 3-26-02)

Secs. 42-23–42-25 Reserved

Division III. Enforcement

Sec. 42-26 Enforcement options

When the building official has determined that a violation of this article has occurred or is occurring, the following remedies are available to the regulatory authority. The remedies provided for in this section or elsewhere in this article are not exclusive. The regulatory authority may take any, all, or any combination of these actions against a violator, consecutively or concurrently:

(1) Issuance of a warning notice, verbal or written;

(2) Issuance of one or more citations;

(3) Emergency closure/suspension order;

a. Post and maintain a placard at the entrance of the food establishment, notice of the conditions therein, or to require the owner, operator, or person in charge of the establishment to maintain the placard at the entrance that this establishment is closed;

b. To suspend without delay its food establishment permit.

(4) Conditions which warrant the actions authorized include but are not limited to loss of electrical power, interruption of water service, sewage backing up into the establishment, serious lack of sanitation, or catastrophic occurrence.

(5) The owner, operator, or other person in charge of the establishment will be given written notice of the reason for the closure and/or suspension.

(6) Upon receipt of the notice, the food establishment shall immediately cease food operations.

(7) A person commits an offense if the person engages in food operations in an establishment which has been closed or had its license suspended pursuant to this section.

(8) A person commits an offense if the person removes or tampers with any notice posted pursuant to subsection.

(9) A violation of any of the terms or requirements of this article shall be treated as a violation of an ordinance governing fire safety, zoning or public health and sanitation, subject to enhanced penalties under chapter 1, general provisions, section 1-12 of this Code.

(Ord. No. 1524, 3-26-02)

Sec. 42-27 License, certificate or permit suspension

(a) Health services may, without warning, notice or hearing, suspend any permit, license or certificate to operate a food service establishment if the holder of the permit, license or certificate has failed to comply with the requirements of these rules; and such noncompliance constitutes a hazard to public health. Health services may end the suspension at anytime if the reason for suspension/emergency closure no longer exists.

(b) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by health services.

(Ord. No. 1524, 3-26-02)

Sec. 42-28 Revocation proceedings

(a) Notification of right to hearing. When a notice of suspension is given the holder of the permit or certificate or the person in charge (should said person not agree with the findings of the inspection report); then said person must submit a petition in writing requesting a hearing. If no written request for hearing is filed within ten days of receipt of the notice of suspension, the permit or certificate will be suspended. Health services may end the suspension at any time if reasons for suspension no longer exist.

(b) In its petition, the petitioner shall indicate the provisions of the action objected to, and the reasons for the objection(s), any facts that are contested, the evidence that supports the petitioner's view of the facts, and whether the petitioner requests a hearing on its petition.

(c) Hearings. The hearings provided for in this chapter shall be conducted by the city manager who will designate the time and place for the hearing. Based upon the recorded evidence of such hearings: the city manager shall make a finding and shall sustain, modify or rescind any notice or order considered in the hearing.

(d) This hearing shall be deemed to exhaust the administrative remedies of the person aggrieved.

(e) A violation of any of the terms or requirements of this article shall be treated as a violation of an ordinance governing fire safety, zoning or public health and sanitation, subject to enhanced penalties under chapter 1, general provisions, section 1-12 of this Code.

(Ord. No. 1524, 3-26-02)

Secs. 42-29–42-35 Reserved

ARTICLE II. DAY CARE CENTERS

Sec. 42-36 Purpose

The purpose of this article is to supplement state statutes and regulations governing day care centers by providing standards for operation of day care centers in the city to protect the health, safety and welfare of the occupants and patrons of day care centers.

(Ord. No. 1524, 3-26-02)

Sec. 42-37 Texas Department of Protective and Regulatory Services Regulations adopted

(a) The provisions of the current rules or rules as amended, known as the "Minimum Standards for Day Care Centers", found in Title 40 Texas Administrative Code, Chapter 715, Section 401 through 429 are herein adopted together with the additions, deletions, and amendments hereinafter contained, as part of Article II, Day Care Centers, of the "Health and Sanitation" Chapter of the Code of the City of Euless.

(b) An un-abridged copy of the "Minimum Standards for Day Care Centers" shall be kept on file in the office of the city secretary. The provisions of the "Minimum Standards for Day Care Centers" shall apply, as though such regulations were copied at length herein, except where specific other provisions are expressed within this article.

(Ord. No. 1524, 3-26-02)

Sec. 42-38 Definitions

(a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Building official: The officer or other designated authority charged with the administration and enforcement of this Code, or the building official's duly authorized representative.

Child: A person under 18 years of age.

City: City of Euless.

City code: The Code of Ordinances of the City of Euless, as amended from time to time.

Day care center: A facility that provides care for more than five children under 14 years of age, who are not the natural or adopted children of the owner or operator of the day care center, for less than 24 hours a day.

Department: The Texas Department of Health.

Food service: The preparation or serving of meals or snacks.

Handwashing lavatory: A basin with hot and cold running water for the washing of hands.

Health department: The City of Euless Health Services (Code Services).

Health department permit: A certificate issued by the City of Euless Health Services upon application and inspection of a day care center which at the time of issuance complied with applicable city ordinances.

Infant: A child younger than 18 months old.

Isolation area: An area or room apart from other facilities which shall be available for use by children who become sick or injured.

Owner: A person having any legal or equitable interest in the business or operation of a day care center. A person is deemed to be an owner for purposes of this chapter if that person operates, conducts, manages, maintains or controls, either directly or indirectly, a day care center.

Person: An individual or any other legal entity.

Premises: A tract of land with the buildings thereon, or a building or part of a building with its grounds or other appurtenances.

Pre-schoolers: Children between two and five years of age.

Refuse: All wastes resulting from domestic, commercial or industrial operations incidental to urban life, except sewage, but including garbage, brush and trash.

Restroom: A self-contained enclosure with a door on it, containing at least one lavatory and one commode.

Sewage: The liquid waste, which may or may not contain solids, from the plumbing facilities or sanitary conveniences of a building, dwelling unit, business building, factory or institution.

Single-purpose sink: A sink that is used for only one purpose, said purpose being specifically designated by the facility and approved by health services. Types of single-purpose sinks include, but are not limited to: handwashing lavatories at diaper changing stations, handwashing lavatories in restrooms, wastewater disposal sinks, and sinks required for food service preparation in accordance with the rules on food service sanitation.

Toddler: Any child between 18 and 23 months of age.

(b) The term “child care” shall not apply to:

(1) A state-operated facility;

(2) An agency foster group home or agency foster home as defined by the Texas Human Resources Code, Chapter 42;

(3) A facility that is operated in connection with a shopping center, business, religious organization or establishment where children are cared for during short periods while parents or persons responsible for the children are attending religious services, shopping or engaging in other activities on or near the premises, including but not limited to retreats or classes for religious instruction;

(4) A school or class for religious instruction that does not last longer than two weeks and is conducted by a religious organization during the summer months;

(5) A youth camp licensed by the Texas Department of Health;

(6) A hospital licensed by the Texas Department of Health and Mental Retardation or the Texas Department of Health;

(7) An educational facility accredited by the Texas Education Agency or the Texas Private School Accreditation Commission that operates primarily for educational purposes in grades kindergarten and above;

(8) An educational facility that operates solely for educational purposes in grades Kindergarten through at least Grade 2, that does not provide custodial care for more than one hour during the hours before or after the customary school day, and that is a member of an organization that promulgates, publishes and requires compliance with health, safety, fire and sanitation standards equal to standards required by state, county and municipal codes.

(9) Kindergarten or preschool educational program that is operated as part of a public school or a private school accredited by the Texas Education Agency or the Texas Private School Accreditation Commission, that offers educational programs through

Grade 6, and that does not provide custodial care during the hours before or after the customary school day;

(10) A family home as defined by the Texas Human Resources Code, Chapter 42;

(11) An educational facility that is integral to and inseparable from its sponsoring religious organization or an educational facility, both of which do not provide custodial care for more than two hours maximum per day, and that offers educational programs for children age five and above in one or more of the following: Kindergarten through at least Grade 3, elementary or secondary grades; provided, however, that a religious organization, such as that described in subsection (3) above, where children are cared for during short periods while parents or persons responsible for the children are attending religious services or engaged in other activities on or near the premises, may provide custodial care for more than two hours per day; or

(12) After-school care facilities in public schools that provide care before or after the usual school day, or full day care for the same children on school holidays or during summer vacation for more than five children, ages five through 13 years, for children enrolled in the public school provided that the facility is properly licensed by the Texas Department of Protective and Regulatory Services.

(Ord. No. 1524, 3-26-02)

Sec. 42-39 Day care permit, inspection, and compliance

(a) A day care center shall be inspected by health services prior to issuance of a day care permit.

(b) No person shall operate or cause to be operated a day care center in the city without first obtaining a day care permit.

(c) Health services is hereby authorized to issue a day care permit in the city when it finds that the owner or operator of the day care center has complied with the requirements of this article and all other applicable sections of the city code. If the day care center is in compliance, the owner or operator of the day care center as provided above shall be issued a day care permit.

(d) If at the time of inspection, a day care center is found to not be in compliance with this Code, a day care permit will be suspended or will not be issued. After notification of the violations or deficiencies which were detected, the owner shall be required to remedy the conditions of violation or deficiencies within a reasonable period of time as prescribed by the director, but not to exceed 30 days.

(e) If a day care permit is denied by health services, the applicant may appeal by following the procedure specified in section 42-56.

(f) Health services shall keep on file, the reports of inspections made of the day care center as well as appropriate notices or directives to the owner or operator of any violations or deficiencies observed in the inspection.

(g) The owner or operator of the day care center shall operate the facility or cause it to be operated at all times in compliance with the provisions of this article and other applicable sections of the city code. The owner or operator of the day care center shall correct or cause to be corrected within the time period specified any violation or deficiency that is identified by the building official.

(Ord. No. 1524, 3-26-02)

Sec. 42-40 Permit application

(a) Application for a permit to operate a day care center shall be submitted by the owner on a form specified by the Euless Health Services.

(b) The permit application shall state the owner's name, address and telephone number and the name and social security account numbers of all employees and staff members of the day care center.

(c) The permit application shall indicate the name, street and mailing addresses of the day care center, status of food service provided for children, and times of operation.

(d) Upon change of ownership, a new application shall be made for a permit as required in this section. Health services shall inspect the day care center prior to its beginning operation to determine compliance with the requirements of this article. Failure to comply with the requirements of this article may result in denial, suspension, or revocation of a permit.

(e) The owner shall affirm that a certificate of occupancy has been applied for with the Euless Building Inspection Department, its issuance contingent in part on the successful application for a day care center permit.

(f) Failure to provide all required information, or falsifying information required on the application may result in denial, suspension, or revocation of the permit.

(Ord. No. 1524, 3-26-02)

Sec. 42-41 Review of plans

(a) Whenever a day care center is constructed or extensively remodeled and whenever an existing structure is converted to use as a day care center, properly prepared plans and specifications for such construction, remodeling or conversion shall be submitted to the city building department for review and approval before construction, remodeling or conversion is begun. The plans and specifications shall indicate the layout and arrangement of any proposed food service areas, indoor and outdoor areas to be used for the day care center including mechanical plans; construction materials; plumbing fixtures; the type of fixed equipment; and playground and fall zone specifications. The building department shall approve the plans and specifications if they meet the requirements of the adopted city codes.

(b) No day care center shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the building department. The approved

plans and specifications must be followed in construction, remodeling, or conversion.

(c) Whenever plans and specifications are required to be submitted, the building department shall inspect the day care center prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of this article.

(d) Failure to follow the approved plans and specifications may result in permit denial, suspension, or revocation.

(Ord. No. 1524, 3-26-02)

Sec. 42-42 Permit duration and renewal

A day care center permit shall be valid for one year from the date of issuance, unless suspended or revoked as hereinafter provided. Any incorrect information in the records of the Euless Health Services for the day care center shall be corrected before the permit may be renewed.

(Ord. No. 1524, 3-26-02)

Sec. 42-43 Permit renewal, denial, suspension, and revocation

(a) Health services is hereby authorized to deny, suspend, or revoke a day care center permit for a violation of any provision of this article. Denial, suspension or revocation of a permit shall be effected by notice, in writing, setting forth the reasons therefor and specifying any requirements or schedules of time for further action related to the suspension or revocation.

(b) The following actions shall constitute cause for denial or suspension:

(1) Failure to respond within specified limits of time regarding violations observed during a Euless Health Services inspection of the premises and operation;

(2) Any violation of this article which poses a safety or public health hazard to any child entrusted to the care of the day care center;

(3) Failure to possess a valid day care center license or accreditation issued by Texas Department of Protective and Regulatory Services according to Chapter 42 of the Human Resources Code.

(4) Failure to meet the requirements of Chapter 42 of the Texas Department of Protective and Regulatory Services, Human Resources Code, related to the requirements for criminal history check and background search of central registry of reported cases of child abuse for all persons who are present while children are in care.

(c) The following actions shall constitute cause for revocation:

(1) Failure to correct a violation following suspension of the permit; and

(2) Knowingly submitting false information, or allowing false information to be submitted, in the application for a permit.

(d) Whenever a permit is denied, suspended or revoked, the permit holder or person in charge shall cease operations. Parents or legal guardian shall be immediately notified of the denial, suspension, or revocation by the day care center so that alternative child care arrangements can be made. Operations shall not resume until such time as a re-inspection determines that conditions no longer exist causing denial or suspension. The permit holder shall notify health services when the conditions causing the denial or suspension have been corrected. The center may not resume operations until health services verifies that the conditions have been corrected and written authorization given. A sign shall be posted by health services at the entrance of the building clearly visible to a reasonably observant person which states “Closed By Euless Health Services”. Signs posted by the building official or his designee shall not be altered or removed unless authorized by the building official or his designee.

(e) A permit that has been revoked shall not be reissued.

(Ord. No. 1524, 3-26-02)

Sec. 42-44 Permits-Non-transferable

No permit issued under this article shall be used for any purpose other than that for which it was issued, nor be transferred or assigned to, or in any manner used by, any person, firm or corporation other than the one to whom issued by the building official.

(Ord. No. 1524, 3-26-02)

Sec. 42-45 Display of permit

The day care center permit shall be conspicuously posted on an inside wall of the main facility and shall be continuously displayed in public view.

(Ord. No. 1524, 3-26-02)

Sec. 42-46 Requirements for change of ownership of business

(a) For purposes of this section, “change of ownership of the business of any day care center” is defined as the sale, transfer, or exchange of any legal or equitable interest in the business operating a day care center to another person. It shall not be considered a “change of ownership of the business of any day care center” for purposes of complying with the requirements of this section if the owner of the business changes only the type of business entity holding ownership and the owner remains a controlling partner or officer in the new entity.

(b) Whenever a change in the ownership of the business of any day care center occurs, the existing certificate of occupancy shall be automatically revoked, and the new owner:

(1) Shall submit to the building department a scale drawing of the floor plan of the facility including, but not limited, to the following proposed room usage, equipment schedule, room finish schedule, plumbing schedule, and outdoor play area and play

equipment;

(2) Shall pay the applicable floor plan review fee; and

(3) Shall obtain a new certificate of occupancy.

(c) The requirements of this section are in addition to a building permit or any applicable inspections or reviews by any other city department.

(d) In the event of a change of ownership of the business of any day care center, it shall be unlawful for a new owner to operate or cause to be operated a day care center without first complying with all the requirements of this article.

(Ord. No. 1524, 3-26-02)

Sec. 42-47 Applicability of other city permits and certificates

It shall be unlawful for any person to operate or cause to be operated a day care center in the city without first obtaining a building permit, certificate of occupancy, or any other certificate or permit which may be required by any applicable article or chapter of the city code of the city. It shall be unlawful for any person to operate or cause to be operated a food service establishment or temporary food service establishment at a day care center without adhering to all rules for operation of such food service establishment, although said facility need not obtain a separate permit for said use from Euless Health Services. An owner of a day care center shall also comply with all applicable city code requirements before a permit is issued.

(Ord. No. 1524, 3-26-02)

Sec. 42-48 Food service requirements

General requirements shall be as follows:

(a) All day care centers in which food is prepared for human consumption shall comply with the pertinent food service regulations set forth in the city code and in the Rules on Food Service Sanitation (1977), as amended, set forth by the Texas Department of Health, and a copy of which is on file with the city secretary. Day care centers in which food is prepared on site must comply with all applicable food service regulations.

(b) Food service establishment permits or temporary food service establishment permits shall not be required in day care centers which do not prepare food on site, which have children bring their own lunches, which serve only pre-packaged single service snacks, or which prepare no food other than infant formula.

(c) All off-site food services used by a day care center must be permitted as a food service facility by an appropriate health department or authority in the jurisdiction in which the food is prepared. Furthermore, facilities receiving food from such food service entities must have adequate and appropriate provisions for the holding and serving of food and for the washing of utensils in accordance with the requirements

of the adopted city code.

(d) At all day care centers where food is prepared for human consumption, residential type refrigerators, freezers and ranges shall not be used for food preparation or storage in the food preparation area. Only equipment that meets or exceeds the standards established by the National Sanitation Foundation (NSF) will be approved for use, except that, in areas other than food preparation areas, residential type refrigerators may be used for storage of infant formula, juices and medications requiring refrigeration. Day care centers in operation upon adoption of this ordinance which were equipped with residential type equipment may continue to use such equipment until such equipment is replaced. All replacement equipment must meet or exceed the standards established by the NSF.

(Ord. No. 1524, 3-26-02)

Sec. 42-49 Sanitation and hygiene standards for day care center personnel

General requirements shall be as follows:

(a) No owner, employee or volunteer who has a communicable disease, as defined by the Communicable Disease Prevention and Control Act, or who is in a contagious state, or who is afflicted with boils, infected wounds, sores, or acute diarrhea shall be permitted to care for children, come into contact with children, prepare food, or be allowed to work in any capacity where he or she can transmit the communicable disease or infect other individuals in the facility.

(b) Owners, employees and volunteers shall wear clean clothing and maintain a state of personal cleanliness while at the facility.

(c) Owners, employees and volunteers shall thoroughly wash their hands with soap and warm water before starting work, during work as often as necessary to keep them clean, after smoking, eating, drinking, or using the toilet.

(Ord. No. 1524, 3-26-02)

Sec. 42-50 Animal care

General requirements shall be as follows:

(a) Animals kept on or brought to day care center premises shall be licensed and vaccinated against rabies if required by the adopted city code. Documentation of such vaccinations and registration shall be kept on file at the facility.

(b) The day care center and premises shall be kept free of stray animals.

(c) Animals and their living spaces at a day care center shall be kept clean.

(d) Turtles and psittacine birds shall not be kept at or brought to day care center premises. No “prohibited animals,” as that term is defined by the adopted city code,

shall be kept at or brought to day care center premises.

(Ord. No. 1524, 3-26-02)

Sec. 42-51 Provisions for the control of communicable disease

(a) All staff shall clean their hands and exposed portions of their arms with a cleaning compound by vigorously rubbing together the surfaces of their lathered hands and arms for at least 20 seconds and thoroughly rinsing with clean water and shall pay particular attention to the areas underneath the fingernails and between the fingers. Staff shall keep their fingernails trimmed, filed, and maintained so the edges and surfaces are cleanable and not rough.

(b) Staff must wash before preparing or serving food, before feeding a child or handling food, after caring for a sick child, after diapering, after assisting a child with toileting, after coughing and sneezing, after cleaning soiled surfaces, and after engaging in other activity that contaminates the hands.

(c) Staff must assist children to ensure that their hands are thoroughly washed before eating, after using the toilet, after a diaper change, after playing outdoors, after playing with pets, after coughing or sneezing, or after any activity that contaminates the hands.

(d) Permanent signs shall be conspicuously posted by all handsinks including those in the restrooms, food service areas, and classrooms, so as to be noticed by normally observant individuals, reminding all persons to wash hands. Permanent signs, including pictorial messages, shall be posted for communication with children unable to read.

(e) Employees and staff members shall have received a Mantoux tuberculosis skin test, with negative results, within the last two years. In the case of a positive result or when a Mantoux tuberculosis skin test cannot be administered, a tuberculosis examination shall be conducted by a physician and the person found not to be a risk for the communication of tuberculosis. Subsequent testing may be required by health services if the person is exposed to tuberculosis.

(f) Employees and staff members shall not present themselves for work when ill with a contagious virus or other disease that may affect the health of other persons. Persons shall not be permitted in the day care center whose health status or behavior suggests a hazard to the health, safety and welfare of others, including symptoms of a contagious illness, a dangerous mental or physical condition or symptoms of drug or alcohol intoxication.

(g) Any child with symptoms of a communicable disease such as oral fever at or above 100.4F, uncontrolled diarrhea (two or more loose, watery stools in 24 hours) or vomiting (two or more episodes in 24 hours) shall be isolated from other children at the day care center. Extra attention must be given to handwashing and sanitation until the child can be picked up by a parent or other person(s) authorized by the parent according to subsection 42-51(c) of this chapter.

(Ord. No. 1524, 3-26-02)

Sec. 42-52 Safety and sanitation

(a) A day care center shall not be located in a manufactured home or in any part of a building other than the ground level unless approved by the Euless Building and Fire Officials.

(b) A day care center shall maintain an adequate amount of first-aid supplies including, but not limited to soap, antiseptic solutions, absorbent cotton, cotton-tip applicators, sterile gauze, adhesive tape and adhesive bandages. One medium-sized package or container of each of these first-aid supplies shall be maintained in unopened reserve at all times. A magnifying glass, thermometer and tweezers shall also be available. First-aid procedures and supplies shall be applied, including cleaning and bandaging, for any cut or bleeding abrasion of the skin.

(c) The day care center shall take effective measures to maintain the structure and grounds free of insect and rodent infestation. Pest control services shall be provided by an individual or business that is properly licensed by and in compliance with the Texas Structural Pest Control Board requirements. Pest control records must be maintained by the day care center for a period of two years and must be available for review by Euless Health Services.

(d) All equipment and furnishings such as high chairs, chairs, tables, cribs, swings, or playpens shall be in good repair and shall be free of entrapment and entanglement hazards.

(e) The interior of the building shall be maintained free of debris and filth. Walls and floors shall be maintained in good repair, structurally sound and free of holes, dangerous protrusions or other obvious hazards. The floors including carpeting, tile or other coverings shall be kept clean and free of accumulation of debris and filth.

(f) Grounds around the child care facility must be maintained free of debris, unnecessary items or any harborage for rodents or mosquitoes.

(g) All fences, bridges, railings, and other ornaments or equipment on the grounds that are accessible to the children must not pose an entrapment or entanglement hazard. They shall comply with adopted city codes.

(Ord. No. 1524, 3-26-02)

Sec. 42-53 General facility design standards

(a) General requirements.

(1) All stairs, porches, platforms and step elevations greater than 30 inches shall provide handrails or guardrails for usage by children in accordance with the adopted city codes.

(2) All glazing (including windows and doors) shall be installed and maintained in accordance with the adopted city code.

(3) All electrical outlets, which are or may be accessible to or by children younger than five years old shall be protected by childproof covers or safety outlets. All 220-volt electrical connections, which are or may be accessible to or by children younger than five years old shall be protected by a screen or guard.

(4) The lead level of the water from each water tap and water cooler in the facility, from which water is accessible to or consumed by children, must be at or below the maximum levels allowed by the Texas Safe Drinking Water Act, as amended.

(b) Room finishes.

(1) All surfaces of kitchen and restroom doors shall be smooth and easily cleanable. All splash areas in kitchens and bathrooms and the walls immediately adjacent thereto, shall have smooth and easily cleanable surfaces. “Easily cleanable” shall mean that surfaces are readily accessible and made of such materials and finish and so fabricated that residue may be effectively removed by normal methods.

(2) All floors shall be smooth, easily cleanable and free of the following: Cracks, bare concrete, splinters, sliding rugs, telephone jacks, and electrical outlets.

(3) Carpets shall be closely woven, of short nap and kept clean and in good repair. All carpets and carpeted areas shall be vacuumed daily and shampooed as needed. Carpet use is prohibited in restrooms and kitchens.

(c) Sanitation control measures for fixtures and facilities.

(1) All toilet fixtures and facilities shall be installed and maintained in accordance with the adopted city plumbing code.

a. Commodes and urinals shall be located inside bathrooms and equipped so that children are able to use them independently in accordance with the city plumbing code. Bathroom doors must have no locks within the children’s reach.

b. Handicap access and toilet facilities must be installed and maintained in accordance with the city building code.

(d) There shall be at least one toilet and one handwashing lavatory for every 17 children.

(e) There shall be separately designated restrooms for male and female.

(f) All handwashing lavatories shall be provided with hot and cold water under pressure, tempered by means of a mixing valve or combination faucet. The facility must ensure that the temperature of hot water available to children is no higher than 120 degrees Fahrenheit. Self-closing or metering faucets shall provide a flow of water for at least 15 seconds without having to be reactivated. Soap and a hand-drying device or disposable towels shall be provided for use by both staff and children.

(g) Restroom facilities shall be cleaned and sanitized at least once daily and more often if necessary. Carpet use is prohibited in restrooms. Restrooms shall be mechanically ventilated to control odors. Installation and maintenance of mechanical vents shall be in accordance with the city mechanical code.

(h) All toilets shall be equipped with open front toilet seats in accordance with the adopted city

plumbing code.

(i) Each sink shall be designated as a “single-purpose use” sink. Combination fixtures, such as faucet/water fountains, are prohibited. Each day care center shall have the following sinks:

(1) There shall be at least one handwashing lavatory in each restroom or immediately adjacent to each restroom.

(2) If the facility has a diaper changing station, there must be a handwashing lavatory in every room where there is at least one diaper changing station.

(3) If the facility engages in food preparation, there must be a three-compartment sink in the food preparation area.

(j) The source of potable water shall be from a public water supply, maintained and operated according to Texas Department of Health Drinking Water Standards. Water under pressure shall be provided in adequate supply to meet the provisions of the Texas Department of Health Drinking Water Standards.

(k) All sewage shall be discharged into a public sanitary sewer system.

(l) All refuse shall be kept in containers constructed and maintained of durable material with tight fitting lids or covers, nonabsorbent and free from leaks. All containers shall be kept covered when not in use. A sufficient number of containers shall be available to hold all refuse. Refuse shall be stored in clean areas, away from the children and shall be inaccessible by flies, insects, rodents and other pests.

(m) All outer openings of a facility shall be protected against the entrance of flies, insects, rodents and other pests by outward opening and self-closing doors, closed windows, screens, or other effective means of protection and control as approved by the regulatory authority.

(n) Toxic substances, both indoors and out, shall be inaccessible to children at all times. All containers holding toxic substances shall be clearly labeled to identify the toxic substance contents.

(o) All toxic substances shall be dispensed and used in such a manner so as to prevent the toxic substance from constituting a hazard to the children or staff.

(p) In the event that laundering is done on the premises, all clothes dryers shall be vented to the exterior of the building in accordance with the adopted city mechanical code.

(q) In all day care centers, all light fixtures shall either be properly shielded or shall contain only shatterproof light bulbs. At least 50 footcandles of light shall be provided in all areas of any room to which children have access.

(Ord. No. 1524, 3-26-02)

Sec. 42-54 Interior design, activity areas

(a) General requirements:

(1) All equipment, materials and furnishings shall be of sturdy and safe construction, easy to clean, free of sharp points or corners, splinters, protruding nails, loose rusty parts, and paint which contains lead or other poisonous materials.

(2) Each child shall be provided with individual storage space for personal belongings.

(3) Sleeping space and play areas may be used interchangeably so long as adequate space for orderly storage of cots, bedding and play equipment is provided. All cots, cribs and mats shall be maintained in a safe and sanitary manner. Hand contact areas of cribs shall be sanitized daily. Each child shall have his or her own sleeping apparatus, which shall be placed in such a manner so as to allow at least one foot of open space on all sides of the apparatus except where such apparatus is adjacent to a wall or partition.

(4) Individual cribs, portable cribs or playpens used for sleeping shall be of safe and sturdy construction and equipped with mattresses covered with waterproof material that can be cleaned. Crib sides shall have secure latching devices. Vertical slats on cribs shall not be spaced more than two and one-half inches apart. There shall be no more than one and one-half inches of space between the mattress and bed frame when the mattress is pushed flush to any one corner of the crib.

(5) Linens shall be laundered at least once per week and more often if necessary. Linens shared by children shall be laundered after each use. Linens used exclusively by one child shall be stored separately from those of other children.

(b) Isolation area:

(1) All day care centers shall provide an isolation area or room for the use and comfort of any child who becomes ill or is injured while at the facility. While the isolation area or room is in use by an ill or injured child, the area or room must be kept free of other children.

(c) Diapering and toileting:

(1) Infants and toddlers shall be diapered at a diaper station which is in a central diapering area on a sanitized surface.

(2) Diaper changing stations shall be located adjacent to handwashing lavatories equipped with hot and cold water through mixing faucets as required in the adopted city plumbing code and supplied with soap and disposable towels. Hands of the diapered child and persons changing the diaper shall be washed before and after each diaper change. The surface of all diapering areas shall be sanitized after each use.

(3) Disposable diapers, once used, shall be placed in a cleanable container with a tight fitting lid. The container shall be lined with a moisture-proof disposable liner which may not be reused. When the container is full, the liner and the used diapers shall

be removed to a clean area, away from the children, and shall be inaccessible by flies, insects, rodents, and other pests. Cloth diapers, once used, shall be laundered or removed from the facility daily.

(4) Diaper changing stations shall be used only for the purpose of diaper changing.

(5) Use of crib or floor as diaper changing station is prohibited.

(d) Feeding:

(1) A child's hands shall be washed immediately prior to and immediately after consuming any food or beverage.

(2) Food and beverages shall be served in separate containers for each infant or child. Food and beverages shall not be served directly to a child from the original container, unless it is a single portion, single-use container. Once served to a person, portions of leftover food or beverages shall not be served again, except that packaged foods or beverages, other than potentially hazardous food, that are still packaged and are still in sound condition, may be reserved.

(3) Bottled infant formula shall be properly capped when not in use and shall be identified with the child's name. Formula, once prepared or opened, shall be refrigerated. Any formula prepared but not utilized on the day it is opened or mixed shall be discarded at the end of that day.

(Ord. No. 1524, 3-26-02)

Sec. 42-55 Exterior premises

General requirements shall be as follows:

(a) Exterior premises shall be well-drained and maintained free of high grass, poisonous plants, and pest harborages and breeding sites.

(b) Exterior premises shall be free from cisterns and cesspools, and from unprotected wells, grease traps, utility equipment, nuisances, and any other object or condition which may be hazardous to children.

(c) Outdoor play areas shall be surrounded by a fence. The fence shall be so constructed as not to have openings, holes or gaps larger than four inches in any dimension except for doors and gates; and if a picket or iron fence is erected or maintained, the horizontal dimension shall not exceed four inches. The fence shall have at least two exits. An entrance to the building may count as one exit, but one exit must be away from the building. Such fence shall comply with provisions of the zoning ordinance and other applicable city codes and ordinances.

(d) Playground equipment constructed with protruding nails, screws, sharp edges, splinters (rough, unsanded wood or other materials) and toxic paints (e.g., lead-based paints) is strictly prohibited.

(e) All playground equipment shall be securely assembled and, where applicable, securely anchored with unexposed anchors. Such equipment shall be installed, situated, and maintained so as to prevent accidents and collisions.

(f) Swimming and wading pools more than 24 inches deep shall be enclosed by a fence no less than six feet in height which has a self-closing, self-locking gate. When a swimming or wading pool is not in use, it must be kept out of the reach of children.

(g) A minimum free residual chlorine of 1.0 part per million units of water shall be maintained in every swimming pool and wading pool when in use. No water in any swimming pool or wading pool when in use shall be permitted to show an acid reaction to a standard pH test.

(h) All pool chemicals and equipment shall be stored in a place and manner which are at all times inaccessible to children.

(Ord. No. 1524, 3-26-02)

Sec. 42-56 Enforcement

The building official shall have the authority and responsibility to enforce the provisions of this article and applicable state statutes regarding day care centers.

(a) Health services shall have the authority to inspect or visit all day care centers at all reasonable times and as is determined necessary to ascertain if they are being maintained and operated in conformity with this article or if any conditions exist at a facility which require correction. An inspection shall be made at least once each year to ensure that the facilities, grounds, and equipment are maintained in compliance with this article and in a safe sanitary and healthy condition for the welfare of the occupants and patrons of the day care center.

(b) Health services shall have the authority to give written notice to the owner of a day care center of any violation of this article and/or requirement to comply with the provisions of this article. If a day care center is found to be in operation without a day care permit, health services shall have the authority to give written notice to the owner of said facility to cease child caring activities immediately, irrespective of how the facility is maintained or operated. Health services may permit the day care center to remain in operation with the provision that the facility obtain a day care permit within a reasonable time, but said reasonable time may not exceed 30 days.

(c) Health services shall have the authority after giving written notice to suspend the day care permit if it ascertains any violation causing immediate danger to a child regarding: Construction of the facility and on-premises buildings, restrooms, sanitation of the facility, preparation, storage and handling of food, storage of chemicals or any harmful solution, infectious diseases, and hazards in outdoor play areas. Suspension of the permit shall require the operator to cease all child-caring immediately and to bring the day care center into compliance with the directives from the department within a prescribed time period. Failure to rectify designated

problems at the day care center within the prescribed time period shall lead to revocation of the permit.

(d) Health services shall have the authority to revoke any permit if they ascertain that an owner or operator has failed or refused to comply with the minimum requirements set forth in this chapter for a day care center, providing that the following procedure is adhered to:

(1) Health services, in writing by certified mail or by personal service, shall notify the owner of the manner in which the owner or the day care center fails to comply with the provisions of this chapter, and shall specify a reasonable time by which the owner shall remedy said failure.

(2) If the owner fails to comply with the provisions of this chapter within the time specified, health services shall give notice in writing to the owner of the day care center that the permit issued for the operation of the day care center is revoked. This action of revocation is in addition to any criminal enforcement of this article.

(3) The notice of revocation or a denial of a permit shall become final after the expiration of ten days from the date of service upon the owner or operator of the day care center in question, unless on or before the expiration of ten calendar days the owner or his duly authorized agent shall file with the office of health services a written letter of appeal briefly stating therein the basis for such appeal. A hearing shall be held on a date no more than 15 days after receipt of the letter of appeal unless extended by mutual agreement of the parties.

(4) The hearings provided for in this chapter shall be conducted by the city manager who will designate the time and place for the hearing. Based upon the recorded evidence of such hearings, the city manager shall make a finding and shall sustain, modify or rescind any notice or order considered in the hearing.

(e) This hearing shall be deemed to exhaust the administrative remedies of the person aggrieved.

(f) A violation of any of the terms or requirements of this article shall be treated as a violation of an ordinance governing fire safety, zoning or public health and sanitation, subject to enhanced penalties under chapter 1 general provisions, section 1-12 of this Code.

(Ord. No. 1524, 3-26-02)

Secs. 42-57–42-60 Reserved

ARTICLE III. PUBLIC SWIMMING POOLS

Sec. 42-61 Purpose

The purpose of this article is the establishment of minimum standards for the construction, operation and maintenance of public swimming pools and their related facilities in order to protect the health and safety of the public.

(Ord. No. 1524, 3-26-02)

Sec. 42-62 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

Building official: The officer or other designated authority charged with the administration and enforcement of this Code, or the building official's duly authorized representative.

Deck: The surface surrounding a swimming pool that is intended to be used for walking by those using the pool.

Extensive remodeling: The replacement of or modification to a swimming pool's structure, its circulation system or its appurtenances, so that the design, configuration or operation is different from the original design, configuration or operation. This term does not include the normal maintenance and repair or the replacement of equipment which has been previously approved if the size, type or operation of the equipment is not substantially different from the original equipment.

Health services: City of Euless Health Department.

Pool area: The water surface and deck of a swimming pool.

Private swimming pool: A swimming pool located on the premises of a single-family or duplex residence, under the control of the owner or tenant, the use of which is limited to members of the household and invited guests.

Public swimming pool: Any swimming pool other than a private swimming pool. The term shall include the deck and all related facilities such as dressing and locker rooms, toilets, showers, and other areas designed for use by the facility's patrons.

Swimming pool: Any structure, basin, chamber, or tank designed to contain an artificial body of water for swimming or diving, or therapeutic or recreational bathing. A swimming pool includes, without limitation but by way of illustration, the following types of facilities:

(1) Hydrotherapy pool or whirlpool: A swimming pool that is a special bathing facility designed for therapeutic use and which is not drained after each individual use. It may include, without limitation, units designed for hydrojet circulation.

(2) Spa: A swimming pool that is a special bathing facility designed for recreational use and which is not drained after each individual use.

(3) Spray pool: A swimming pool into which water is sprayed but is not allowed to pond at the bottom.

(4) Wading pool: A swimming pool with a maximum depth of not more than 30 inches.

(5) Water recreation attraction: A swimming pool facility with design and operational features which differ from a conventional swimming pool and shall include, without limitation, water slides, water amusement lagoons and rivers, and wave pools.

(Ord. No. 1524, 3-26-02)

Sec. 42-63 Fees

(a) Health services shall charge fees for public swimming pools in the following categories:

(1) Permits;

(2) Plans review; and

(3) Change of ownership, pre-operations inspections.

(b) The fees shall be set forth in a schedule adopted by the city council.

(c) The fee schedule shall be available to the public at health services office.

(Ord. No. 1524, 3-26-02)

Sec. 42-64 Swimming pool permit required

A person commits an offense if the person owns, operates, or manages a public swimming pool without a valid permit issued by health services.

(Ord. No. 1524, 3-26-02)

Sec. 42-65 Issuance of permit

(a) A person required to have a permit under this article shall annually complete a permit application on a form prescribed by health services.

(b) Prior to the issuance of a permit, the applicant shall allow health services to inspect the public swimming pool and pool water for compliance with the requirements of this article.

(1) Health services will inspect any newly constructed pool, any extensively remodeled pool and any pool under new ownership prior to the issuance of a permit.

(2) Health services may inspect all other pools, at their discretion, prior to the issuance of a permit.

(3) Health services may require the applicant to provide satisfactory evidence that the

public swimming pool meets the permit conditions of section 42-66.

(4) Health services may not issue a permit until the public swimming pool passes any required inspection and all applicable fees have been paid.

(5) A permit is valid only for the public swimming pool for which it is issued. A separate permit shall be required for each pool located on the same premises. However, a group of pools sharing a common filtration system may be operated under a single permit. A permit is not transferable to other persons or pools.

(6) A permit is valid for one year from the date of its issuance unless:

a. It is suspended or revoked by health services;

b. The pool changes ownership; or

c. The pool is remodeled extensively.

(Ord. No. 1524, 3-26-02)

Sec. 42-66 Permit conditions

As a condition of obtaining and keeping a permit, a public swimming pool shall at all times be in compliance with the following permit conditions:

(1) The public swimming pool shall meet or exceed Texas Health and Safety Code, § 341.064, “Swimming Pools and Bathhouses”, as currently enacted or as it may hereafter be amended.

(2) The public swimming pool shall meet or exceed all applicable provisions of 25 T.A.C. § 337.71, et seq., “Design Standards for Public Swimming Pool Construction”, as currently enacted, or as may hereafter be amended.

(3) Fencing or other enclosures for the public swimming pool shall meet or exceed the requirements of Vernon’s Texas Code Annotated, Health and Safety Code, Chapter 757, “Pool Yard Enclosures”, as currently enacted or as it may hereafter be amended.

(4) All plumbing, electrical work, mechanical facilities, and structures for the public swimming pool shall meet or exceed all applicable requirements of chapter 14, “buildings and building regulations”; article I “building codes”, article III “electrical”, article IV “plumbing and gas fitting”, of the Code of Ordinances of the City of Euless, Texas (2001), as amended.

(5) Storage of pool chemicals shall meet or exceed all applicable requirements per manufactures recommendations on label.

(6) Pool water shall be maintained so as to prevent the breeding or harborage of insects.

(7) Pool water shall be of sufficient clarity to allow sight to the main drain at all times.

(8) Pool water shall not emit odors that are foul and offensive to a person of reasonable sensibilities.

(9) A permit holder or applicant shall give health services access at all reasonable times to inspect the public swimming pool and to take water samples to determine compliance with this article.

(10) A public swimming pool permit shall be prominently displayed on the pool premises and be available at all times for inspection by health services.

(11) A trained pool operator shall be readily available to monitor and maintain the public swimming pool during all hours of operations.

(12) Drainage and/or backwash from swimming pools shall be discharged to the sanitary sewer system only.

(Ord. No. 1524, 3-26-02)

Sec. 42-67 Plans review-New and remodeled pools

(a) Prior to beginning the construction of a new public swimming pool or the extensive remodeling of an existing public swimming pool, the owner shall submit plans and specifications for such construction or remodeling to the building department for review.

(1) All private above-ground and in-ground swimming pools with a capacity of 5,000 gallons and above, a permit is required at time of installation.

(2) All public pools regardless of shape, size, and gallons shall require a permit.

(3) All private and public swimming pools regardless of shape, size, and gallons shall comply with all building set backs.

(b) The plans and specifications shall indicate the proposed layout arrangement, mechanical plans, construction materials and the type and model number of proposed fixed equipment and facilities.

(c) The plans and specifications shall be submitted under the seal of a professional engineer with the statement that they meet the requirements of sections 42-65 (b), (c), (d), (e), (i) and (l).

(d) No work shall begin until the building department has reviewed the plans and advised the owner that work may begin, and the owner or the owner’s contractor has obtained all required permits for such work from the building official. Work shall commence and conclude within the time allowed by such permits. Deviations from approved plans shall not be permitted. If no work has begun within 180 days from the date the permit was issued for said work to begin, the building official may revoke such permit.

(Ord. No. 1524, 3-26-02)

Sec. 42-68 Trained pool operators

(a) The owner or person in control of a public swimming pool shall designate one or more trained pool operators for the pool. A trained pool operator shall be readily available during all hours of operation to monitor the public swimming pool and maintain it in a safe and sanitary manner.

(b) In order to be considered trained, a pool operator shall successfully complete a basic eight hour course in swimming pool maintenance and safety, a list shall be provided by health services.

(c) A person commits an offense if the person owns or is in control of a public swimming pool which does not have a trained pool operator readily available during all hours of pool operation.

(d) A person who owns or is in control of a public swimming pool shall maintain proof on the premises that the pool has a designated trained pool operator and shall present such proof to the health services when required.

(e) In a prosecution for a violation of subsection (d), failure to present proof of a designated trained pool operator to the health services shall constitute prima facie evidence that a trained pool operator is not readily available during all hours of operation.

(f) If a trained pool operator is not employed onsite at the public swimming pool, the owner or person in control of the pool shall post signs at all entrances to the pool stating the telephone number or pager number of the trained pool operator. The letters in such signs shall be of a minimum height of one inch, and shall be of a color contrasting to their background.

(1) At a minimum, such signs shall state:

"TO REPORT MECHANICAL, SAFETY OR WATER QUALITY PROBLEMS WITH THE POOL, CALL DURING POOL HOURS." "FOR FIRE, POLICE, OR AMBULANCE IN AN EMERGENCY, DIAL 911."

(2) Such signs shall be of weather-resistant construction, and shall be posted where they are readily visible to a reasonably observant person.

(g) A person commits an offense if the person owns or is in control of a public swimming pool with no trained pool operator employed on-site and with criminal negligence fails to post or maintain signs required by subsection (f).

(h) A swimming pool permit application shall name the designated trained pool operator for the public swimming pool for which a permit is sought. If the designated trained pool operator changes during the term of the permit, the owner or person in control of the pool shall immediately report such change to the health services.

(i) A person commits an offense if the person owns or is in control of a public swimming pool and knowingly fails to report a change of trained pool operator as required by subsection (h).

(j) A person who is a designated trained pool operator of a public swimming pool commits an offense if the person fails to test the pH level and the chlorine or disinfectant level in the pool a minimum of twice per day.

(Ord. No. 1524, 3-26-02)

Sec. 42-69 Maintenance of pool records

(a) A designated trained pool operator shall maintain records of all pH level and chlorine or disinfectant level tests performed on a public swimming pool during the permit term.

(b) The records shall state the results of such tests, the time and date the tests were made, and the level of pool usage at the time.

(c) Such records shall be maintained on-site at the public swimming pool for no less than two years, and shall be made available immediately upon the request of health services.

(d) A person commits an offense if the person owns, is in control of, or is a trained pool operator of a public swimming pool and with criminal negligence fails to maintain records as required by this section.

(e) A person commits an offense if the person owns, is in control of, or is a trained pool operator of a public swimming pool and fails to make records required by this section available immediately upon the request of health services.

(Ord. No. 1524, 3-26-02)

Sec. 42-70 Nuisance

(a) A public or private swimming pool is hereby declared to be a nuisance if:

(1) Water at the public swimming pool is not maintained so as to prevent the breeding or harborage of insects; or

(2) Water at the public swimming pool emits an odor that is foul and offensive to a person of reasonable sensibilities.

(3) Clarity of the water is degraded to a point that the main drain is not visible in normal lighting conditions.

(b) Health services may give notice to the owner of the property on which a nuisance under this section is located to abate, remove or otherwise remedy such nuisance immediately.

(c) The notice must be given:

(1) Personally to the owner in writing;

(2) By letter addressed to the owner at the owner’s post office address and sent by

certified mail, return receipt requested; or

(3) If personal service cannot be obtained or the owner's post office address is unknown:

a. By publication in the official newspaper of the city at least twice within ten consecutive days;

b. By posting the notice on or near the front door of each building on the property to which the violation relates; or

c. By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(d) If the public swimming pool has a valid or suspended permit issued pursuant to this article and the permit holder is not the same person as the owner of the property, notice shall also be given to the permit holder.

(e) If the property owner does not comply with the notice within ten days of service, the building official may enter the property containing the nuisance and do any work necessary to abate the nuisance.

(f) If immediate abatement of the nuisance is deemed necessary by the building official to protect the public health, safety or welfare from an imminent hazard, the building official may, without complying with the notice provisions of this section, enter the property containing the nuisance and do or cause to be done any work necessary to abate the nuisance.

(g) All costs incurred by the city to abate a nuisance, including the cost of giving notice as required, shall initially be paid by the city and charged to the owner of the property. The city may assess the expenses or obtain a lien against the real estate on which the work was done.

(Ord. No. 1524, 3-26-02)

Sec. 42-71 Grounds for permit denial

(a) The building official may deny the issuance of a swimming pool permit:

(1) The applicant has been convicted of one or more violations of this article or Texas Health and Safety Code, § 341.064, within the 12 months preceding the date of the application;

(2) If any of the permit conditions of section 42-66 are not met;

(3) If a swimming pool permit held by the applicant for the same premises is under suspension at the time of the application or was revoked within the 12 months preceding the date of the application; or

(4) If the applicant makes a materially false statement on the application or there is any

false statement or misrepresentation as to a material fact in any plans and specifications submitted pursuant to this article.

(b) An applicant whose permit is denied will be notified by the building official within ten days of the date of the denial. The building official shall set out the grounds for the denial.

(c) An applicant whose permit is denied may request an appeals hearing within ten days after the notice of denial. Such request shall be in writing, shall specify the reasons why the permit should not be denied, and shall be filed with the city manager.

(Ord. No. 1524, 3-26-02)

Sec. 42-72 Grounds for suspension or revocation of permit

After notice and hearing, the building official may suspend for up to 180 days or may revoke a public swimming pool permit if:

(1) The permit holder or person in control of the public swimming pool is convicted of a violation of this article or Texas Health and Safety Code, § 341.064 during the term of the permit;

(2) The permit holder or person in control of the pool fails to comply with any of the permit conditions set forth in section 42-66;

(3) The permit holder or person in control of the pool fails to comply with an inspection report order;

(4) The permit holder or person in control of the pool disobeys a closure order issued by the building official pursuant to this article; or

(e) The permit holder made a materially false statement on the permit application or there is any false statement or misrepresentation as to a material fact in any plans and specifications submitted pursuant to this article.

(Ord. No. 1524, 3-26-02)

Sec. 42-73 Right of entry

(a) The building official may enter the premises of public swimming pools at all reasonable times whenever it is necessary to make an inspection to enforce any of the provisions of this article, to collect water samples, or whenever health services has probable cause to believe that a violation of this article exists on such premises.

(b) Health services shall first present appropriate credentials and require entry if the premises are occupied. If the premises are unoccupied, the regulatory authority shall first make a reasonable attempt to locate the owner or person in control of the premises and require entry.

(c) If entry is denied or if a person in control cannot be located, health services, shall have every recourse provided by law to secure entry. Such recourse shall include the right to obtain a

search warrant under the provisions of Article 18.05 of the Texas Code of Criminal Procedure.

(Ord. No. 1524, 3-26-02)

Sec. 42-74 Inspection reports

(a) After inspecting a public swimming pool pursuant to this article, health services may prepare a written inspection report. Such report shall specify the violations observed during the inspection and order the owner or person in control to bring the facility into compliance with this article by a specified time.

(b) Health services shall furnish a copy of the inspection report to the owner or person in control of the facility.

(c) The inspection report shall state: “FAILURE TO COMPLY WITH THE ORDERS OF THIS REPORT MAY RESULT IN THE ISSUANCE OF CRIMINAL CITATIONS, THE CLOSURE OF THE POOL FACILITY, THE SUSPENSION OR REVOCATION OF YOUR SWIMMING POOL PERMIT, AND THE EXERCISE OF ALL OTHER REMEDIES ALLOWED BY LAW.”

(d) A person commits an offense if the person owns or is in control of a public swimming pool and fails to comply with an order issued pursuant to this section.

(Ord. No. 1524, 3-26-02)

Sec. 42-75 Closure order

(a) Health services may order a public swimming pool closed if it determines:

(1) That it is being operated without a valid public swimming pool permit;

(2) That it is being operated without a trained pool operator readily available during all hours of pool operation; or

(3) That the continued operation of the pool will constitute an imminent hazard to the health or safety of persons using the facility, or those in close proximity to the facility.

(b) After health services closes a public swimming pool, the owner or person in control of the pool shall immediately:

(1) Properly post and maintain signs at all entrances to the public swimming pool that state: “POOL CLOSED”; and

(2) Lock all doorways and gates that form a part of the public swimming pool enclosure.

(c) Signs required by subsection (b) shall be provided by health services. Signs shall be positioned so that they are readily visible to a reasonably observant person.

(d) If the owner or person in control of the public swimming pool is absent, or fails or refuses to comply with subsection (b) and (c), health services may post signs and secure the premises

in accordance with this section.

(e) A person commits an offense if the person owns or is in control of a public swimming pool subject to a closure order and fails to comply with subsections (b) or (c) of this section.

(f) A person other than health services commits an offense if the person removes, defaces, alters, covers or renders unreadable a closure sign.

(g) A person commits an offense if the person uses for swimming, diving or bathing a public swimming pool that has been closed by health services and which is properly posted as required by this section.

(h) A person commits an offense if the person owns or is in control of a public swimming pool subject to a closure order and knowingly allows persons to use the pool for swimming, diving, or bathing.

(i) A public swimming pool closed by health services shall not resume operation until a re-inspection by health services determines that the facility has been brought into compliance with this article and other applicable laws and regulations.

(j) A permit holder may appeal a closure order to health services within three days after the issuance of the order. The appeal shall be in writing, shall set forth the reasons why the closure order should be rescinded, and shall be filed with the city manager's office. The filing of an appeal does not stay the closure order.

(Ord. No. 1524, 3-26-02)

Sec. 42-76 Hearings procedures

(a) The hearings provided for in this chapter shall be conducted by the city manager who will designate the time and place for the hearing. Based upon the recorded evidence of such hearings: The city manager shall make a finding and shall sustain, modify or rescind any notice or order considered in the hearing.

(b) Decisions shall be made based on a preponderance of the evidence, with the city having the burden of proof.

(c) This hearing shall be deemed to exhaust the administrative remedies of the person aggrieved.

(Ord. No. 1524, 3-26-02)

Sec. 42-77 Enforcement

A violation of any of the terms or requirements of this article shall be treated as a violation of an ordinance governing fire safety, zoning or public health and sanitation, subject to enhanced penalties under chapter 1, general provisions, section 1-12 of this Code.

(Ord. No. 1524, 3-26-02)

Secs. 42-78–42-80 Reserved

ARTICLE IV. REGULATION OF SMOKING*(48)

Sec. 42-81 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Notice means the posting of signs in sufficient numbers and at such conspicuous locations so as to be readily observable by a reasonably observant person indicating that an area readily discernible by a reasonably observant person delineated upon such sign or clearly apparent from the placement of such signs prohibits smoking within such area and references on such sign that smoking within such area is prohibited by city Ordinance No. 87-919, or as to indoor service lines that smoking in line is prohibited by such ordinance.

Smoking means the possession of burning tobacco, weeds or other plant product.

Tobacco product means a cigarette, cheroot, stooge, cigar, snuff, smoking tobacco, chewing tobacco, and article or product made of tobacco or a tobacco substitute.

(Code 1974, § 8-115; Ord. No. 1138, § I, 7-12-94)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 42-82 Smoking prohibited in designated areas

(a) An owner, operator, manager, employer or other person having control of any building or area within a building may designate all or any part of such building or area thereof as a no smoking area wherein smoking shall be prohibited upon compliance with the provisions of this article and the posting of notice as required in this article reading “Smoking Prohibited By City Ordinance No. 87-919.”

(b) A person commits an offense by smoking in an area where notice is posted as provided in this article.

(c) A person also commits an offense by smoking in an indoor service line in which more than one person is giving or receiving goods or services, such as, by way of example and not by limitation, retail store and food market checkout lines, service lines of financial institutions such as bank teller lines, and food service lines such as cafeteria lines, provided the owner, operator, manager, employer or other person having control of the goods or services being given or received provides:

(1) Signs of sufficient numbers and at such conspicuous locations as to be readily observable by a reasonable observant person reading “Smoking In Line Prohibited By City Ordinance No. 87-919”; and

(2) Receptacles for the extinguishment of smoking materials within the immediate area of such service line and no further than 20 feet thereof.

(Code 1974, § 8-116)

Sec. 42-83 Defenses to prosecution

It shall be a defense to prosecution under this article that the area designated wherein smoking is prohibited was not posted with notice thereof as provided in this article. It shall also be a defense to prosecution under this article that facilities for the extinguishment of smoking materials were not located within the area wherein smoking is prohibited or within 20 feet of each entrance to the area so designated wherein smoking is prohibited and within which the offense takes place.

(Code 1974, § 8-117)

Sec. 42-84 Posting of notice and placing of receptacles for extinguishment of smoking materials

The owner, operator, manager, employer or other person having control of any area where smoking is to be prohibited shall post notice, as provided in this article, in sufficient numbers and at such conspicuous locations, including entrances thereto, so as to be readily observable by a reasonably observant person, and shall provide receptacles for the extinguishment of smoking materials within such area or within 20 feet of the entrance to such area where smoking is to be prohibited as provided by this article.

(Code 1974, § 8-118)

Sec. 42-85 Penalty for violation of article

Any person violating the terms and provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. Any such violation shall be deemed a violation of a provision governing public health under section 1-12 of this Code.

(Code 1974, § 8-119; Ord. No. 1077, § XVII, 5-12-92)

Sec. 42-86 Vending machines

A person commits an offense if he or she sells, offers for sale, allows the sale of, allows the offer for sale of or allows the display for sale of tobacco products by use of a vending machine. It is an exception to the offense created by this section:

(1) That a cigarette vending machine is located within an enclosed facility which does not admit any person under the age of 18 years. The establishment shall post a sign at each entrance of the enclosed facility that persons under the age of 18 years are prohibited from the enclosed facility. Enclosed facility means an area surrounded by a wall and which area may not be accessed except by doorway.

(2) That a cigarette vending machine is located in a portion of a facility to which the general public or members of a private club do not have access. The establishment shall post a sign at the entrances to this area to which the general public or members of a private club are prohibited.

(Ord. No. 1138, § I, 7-12-94)

Secs. 42-87–42-90 Reserved

ARTICLE V. AIR POLLUTION

Sec. 42-91 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section.

Commercial passenger transportation means a mode of transportation provided by a bus or motor coach designed to accommodate more than ten passengers (including the operator) for compensation, and that is powered by a primary propulsion engine, but specifically excluding the modes of railroad, light rail, or taxicabs.

Idle means the operation of an engine in the operating mode where:

(1) The engine is not engaged in gear;

(2) The engine operates at a speed at the revolutions per minute specified by the engine or vehicle manufacturer for when the accelerator is fully released; and

(3) There is no load on the engine.

Mechanical operations means the use of electrical tools or equipment in construction, maintenance, or repair of facilities.

Passenger transit operations means a regional mode of public transportation that is funded through a portion of sales tax for the region being served.

Primary propulsion engine means a gasoline or diesel-fueled internal combustion engine that:

(1) Is attached to a motor vehicle; and

(2) Provides the power to propel the motor vehicle into motion and maintain motion.

(Ord. No. 1832, § 1, 9-23-08)

Sec. 42-92 Idling prohibited

A person commits an offense if, at any time from April 1 through October 31 of any calendar

year, he causes, suffers, allows, or permits the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle is not in motion.

(Ord. No. 1832, § 1, 9-23-08)

Sec. 42-93 Defenses

It shall be a defense to prosecution under this article that:

(a) The motor vehicle has a gross vehicle weight rating of 14,000 pounds or less;

(b) The motor vehicle was forced to remain motionless because of traffic conditions over which the operator had no control;

(c) The motor vehicle was being used:

(1) By the United States military, national guard, or reserve forces; or

(2) As an emergency or law enforcement motor vehicle.

(d) The primary propulsion engine of the motor vehicle was providing a power source necessary for a mechanical operation of the vehicle, other than:

(1) Propulsion; or

(2) Passenger compartment heating or air conditioning.

(e) The primary propulsion engine of the motor vehicle was being operated for maintenance or diagnostic purposes;

(f) The primary propulsion engine of the motor vehicle was being operated solely to defrost a windshield;

(g) The primary propulsion engine of the motor vehicle was being used to supply heat or air conditioning necessary for passenger comfort or safety, if the vehicle:

(1) Was a school bus or was intended for commercial passenger transportation or passenger transit operations; and

(2) Did not idle more than 30 consecutive minutes;

(h) The primary propulsion engine of the motor vehicle was being used to provide air conditioning or heating necessary for employee health or safety while the employee was using the vehicle to perform an essential job function related to roadway construction or maintenance;

(i) The primary propulsion engine of the motor vehicle was being used as airport ground support equipment; or

(j) The person charged with the offense was the owner of a motor vehicle that had

been rented or leased to the person operating the vehicle at the time of the offense, if the vehicle operator was not employed by the vehicle owner.

(Ord. No. 1832, § 1, 9-23-08)

Sec. 42-94 Penalty

(a) An offense under this section is punishable by a fine as set forth in accordance with section 1-12, "General penalty," of this Code. Each instance of a violation of this section is a separate offense.

(b) Prosecution for an offense under this section does not preclude the use of other enforcement remedies or procedures that may be available to the city.

(Ord. No. 1832, § 1, 9-23-08)

CHAPTERS 43 - 45
RESERVED

CHAPTER 46
NUISANCES*(49)

ARTICLE I. IN GENERAL

Sec. 46-1 Enforcement of nuisance ordinances within 5,000 feet of city limits

Any nuisance defined or labeled as such by this Code may be regulated, prohibited, abated or removed as such by the city, whether such nuisance, or any part thereof, be located within the city limits of this city, or within 5,000 feet outside such city limits.

(Ord. No. 1803, § 1, 1-22-08)

Secs. 46-2–46-25 Reserved

ARTICLE II. GRASS, WEEDS, STAGNANT WATER AND OTHER UNWHOLESOME CONDITIONS*(50)

Sec. 46-26 Nuisance declared

(a) All weeds, brush, grass and other vegetation prescribed or prohibited by this article are deemed a fire hazard, a traffic hazard, and a menace to the health, safety and welfare of the citizens of Euless, and, therefore, a public nuisance.

(b) All places in the city that are unwholesome, contain stagnant water, or are in any other condition that may produce disease are deemed a health and safety hazard, and a menace to the health, safety and welfare of the citizens of Euless, and, therefore, a public nuisance.

(Code 1974, § 7-26; Ord. No. 1448, § I, 9-26-00)

Sec. 46-27 Maximum height; stagnant water and other unwholesome places

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property within the corporate limits of the city to suffer or permit grass, weeds or other plants, except as provided in this article, to grow to a height greater than 12 inches upon any real property within 50 feet of any property line, residence, barn, building or other structure within the city limits, including that area between the property line and the curb or, if there is no curb, then from the property line to the traveled portion of the street or to a height greater than 24 inches upon any other real property in the city, except for:

(1) Pasture land used for grazing of livestock; and

(2) The growing of agricultural crops under cultivation, inclusive of trees, shrubs, flowers or other decorative or ornamental plants.

(b) It shall be the duty of the person owning, claiming, occupying, or having supervision or control of any real property within the corporate limits of the city to keep such property free and clear of all such weeds, brush, grass and other unsafe vegetation which exceeds the height prescribed in this section. All such weeds, brush, grass and other unsafe vegetation is presumed to be a public nuisance.

(c) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property within the corporate limits of the city to suffer or permit a place or condition on said property which is unwholesome, contains stagnant water or is in any other condition that may produce disease.

(d) It shall be the duty of the person owning, claiming, occupying or having supervision or control of any real property within the corporate limits of the city to keep such property free and clear of all such unwholesome places, places which contain stagnant water or places which are in any other condition that may produce disease. Such duties shall include, but not be limited to, the filling or draining of any such place. All such places that are unwholesome, contain stagnant water or are in any other condition that may produce disease are hereby presumed to be a public nuisance.

(Code 1974, § 7-27; Ord. No. 1448, § I, 9-26-00)

Sec. 46-28 Failure to comply; notification; abatement of nuisance by city

(a) If any person owning, claiming, occupying, or having supervision or control of any real property fails to comply with the provisions of this article, the city shall notify such person of his failure to comply. If personal service cannot be obtained or the owner’s post office address is unknown, then the notice shall be given by publication in any two issues within ten consecutive

days in any daily, weekly or semi-weekly newspaper in the city; or by posting the notice on or near the front door of each building on the property to which the violation relates; or 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. The form of notice of a violation if furnished to the owner by certified mail, return receipt requested, shall inform the owner that if the owner commits another violation of the same kind or nature 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 any one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without notice may undertake any action permitted in subsection (b) hereof and assess its expenses as provided in section 46-29 hereof.

(b) If the person described in subsection (a) of this section fails or refuses to comply with the provisions of this article within ten days after notification by letter or date of second publication of notice, or date of posting the notice at the property as provided in subsection (a) above, the city may go upon such property and do or cause to be done the work necessary to obtain compliance with this article. Such work may consist of preparing such property so that it can be reasonably be mowed, the mowing of the property, and the removal of cuttings and other debris attributed to the mowing and preparation of the property. Such work may also consist of the filling and draining of any place on such property that is unwholesome, contains stagnant water, or is in any other condition that may produce disease. Such work may further consist of repair, removal or demolition of any building, structure or part thereof which is reasonably capable of causing injury to a person or damage to property. After initiating such work, the city may charge against the person having control of the land an administrative fee.

(Code 1974, § 7-28; Ord. No. 1132, § I, 3-22-94; Ord. No. 1448, § I, 9-26-00)

State law reference–Notice requirements, V.T.C.A., Health and Safety Code § 342.006.

Sec. 46-29 Collection of abatement cost; administrative fee

The expense incurred pursuant to this article in correcting the condition of such property, and the cost of publication of notice in the newspaper, shall be paid by the city and charged to the owner of such property, who shall in addition pay an administrative fee as set forth in chapter 30. The city shall file with the county clerk a statement, signed by the mayor or an official of the city designated by the mayor, of the amount so expended and costs which statement shall state the name of the owner, if known, and the legal description of the property. Such amount shall bear interest at the rate of ten percent from the date the city incurs the expense and shall become a privileged lien against the real property, second only to tax liens and liens for street improvements. For any such expenditures, costs and interest, suit may be instituted, and recovery and foreclosure had by the city. The statement of expense filed with the clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work improvements or correction of the property, all as more particularly specified in V.T.C.A., Health and Safety Code 342.007, which is hereby adopted by reference.

(Code 1974, § 7-29; Ord. No. 1132, § II, 3-22-94)

Cross reference–Nuisance abatement and collection fees, § 30-17.

Sec. 46-30 Compliance required

Before any application for change of zoning, platting or replatting is accepted, all liens and charges arising under the terms of this article shall be satisfied. In addition, property will be inspected to ascertain that section 46-27 is not violated at the time of application.

(Code 1974, § 7-31)

Sec. 46-31 Penalty for violation of article

Any person violating the terms and provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. No fine imposed hereunder shall be less than $25.00.

(Code 1974, § 7-30; Ord. No. 1077, § XII, 5-12-92)

Secs. 46-32–46-50 Reserved

ARTICLE III. LITTERING*(51)

Sec. 46-51 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Garbage means all decayable wastes, including vegetable, animal and fish offal and carcasses of such animals and fish, except sewage and body wastes, but excluding industrial byproducts, and shall include all such substances from all public and private establishments and from all residences.

Junk means all worn out, worthless and discarded material in general, including but not limited to odds and ends, old iron or other metal, glass, paper, cordage or other waste or discarded materials.

Litter means refuse, garbage, rubbish and junk, singly or any combination thereof.

Refuse means garbage, rubbish and all other decayable and nondecayable waste, including vegetable, animal and fish carcasses, except sewage from all public and private establishments and residences.

Rubbish means all nondecayable wastes, except ashes, from all public and private establishments and from all residences.

(Code 1974, § 7-40)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 46-52 Prohibited

(a) No person shall deposit, discard or throw refuse, garbage, rubbish, junk or other litter in or upon any public street, road or other public place or upon private property within the city, except in public receptacles or in authorized private receptacles for collection or in an official city sanitary landfill.

(b) The owner or person in control of any private property within the city shall at all times maintain such premises free of accumulations of garbage, rubbish, junk or other litter, and the failure of any such owner or person in control to do so shall be punishable as an offense under this Code, as a violation of a provision governing public health and sanitation.

(Code 1974, § 7-41; Ord. No. 1396, § I, 11-23-99)

Sec. 46-53 Littering on another's property

No person shall throw or deposit litter on any occupied private property within the city, whether owned by such person or not, except that the owner or person in control of private property may maintain authorized private receptacles for collection in such a manner that litter will be prevented from being carried or deposited by the elements upon any street, sidewalk or other public place or upon any private property.

(Code 1974, § 7-42)

Sec. 46-54 Use of receptacles

Persons placing litter in public receptacles or in authorized private receptacles shall do so in such manner as to prevent it from being carried or deposited by the elements upon any street, sidewalk or other public or private place.

(Code 1974, § 7-43)

Sec. 46-55 Sweeping; cleanliness of sidewalk area

No person shall sweep into or deposit in any gutter, street or other public or private place within the city the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalk and driveways abutting their premises clean and free of litter.

(Code 1974, § 7-44)

Sec. 46-56 Blowing, etc., from vehicle

No person shall drive or move any truck or other vehicle within the city unless such vehicle is so constructed or loaded as to prevent any load or contents of litter from being blown or deposited upon any street, alley or other public place or on private property.

(Code 1974, § 7-45)

Sec. 46-57 Abatement

Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of litter within ten days after receipt of written notice as provided in section 46-28, such disposal of litter by the city shall be added to the cost of abatement as provided in such section.

(Code 1974, § 7-46)

Secs. 46-58–46-80 Reserved

ARTICLE IV. ABANDONED AND LOST PERSONAL PROPERTY*(52)

Division 1. Generally

Sec. 46-81 Definition

For the purpose of this article, the term “vehicle” shall include the terms “automobile,” “truck,” “trailer,” or any other motor vehicle as defined in Vernon’s Ann. Civ. St. art. 6701d.

(Code 1974, § 7-55)

Cross reference–Definitions and rules of construction generally, § 1-2.

Secs. 46-82–46-90 Reserved

Division 2. Lost or Abandoned Property Other Than Vehicles

Sec. 46-91 Declaring nuisance and authorizing impoundment

Any property, other than a motor vehicle, or obstruction which is placed, left standing, parked, erected or lying in violation of any provision of this Code or other ordinance of the city or left unattended for more than 48 continuous hours in or on any public street, alley, sidewalk, park or other public place of the city is declared to be a nuisance. Any such property shall be removed by any police officer of the city and taken to the police pound and shall be kept there until redeemed or sold as provided in section 46-92.

(Code 1974, § 7-56)

Sec. 46-92 Disposition of unclaimed property

All abandoned property of every kind, including motor vehicles, which shall remain unclaimed with the police department for a period of four months, without being claimed or reclaimed by the owners, whether known or not, is declared to be a nuisance and any such property shall be removed summarily by any police officer of the city and taken to the police pound and shall be kept there until redeemed or sold as provided in this article.

(Code 1974, § 7-56)

Sec. 46-93 Lien on impounded property

The city shall have a lien on impounded personal property for all costs incurred in impounding, storing and advertising such property, and such lien shall be prior and superior to all other liens of every kind, save and except liens for ad valorem taxes, and the city may retain possession thereof until all costs are paid and may sell the same as provided in this article.

(Code 1974, § 7-59)

Sec. 46-94 Chief of police to administer disposition of property

The chief of police shall maintain a list of all property impounded, and he shall administer the disposition of the property as provided in this article.

(Code 1974, § 7-60)

Sec. 46-95 Redemption

The owner or any person legally entitled to possession of personal property impounded pursuant to this division may redeem it as follows:

(1) Before sale. By paying to the city the impounding fee and any other actual expenses incurred by the city in impounding and keeping the impounded property, as determined by the chief of police.

(2) After sale. By paying to the buyer at the auction sale double the amount paid by him for such personal property and any reasonable expenses incurred by him for keeping such property, provided the property must be redeemed from the auction buyer within 30 days after the date of the auction sale, excluding the date of sale; otherwise, title to such property shall become absolute in the auction buyer.

(Code 1974, § 7-61)

Sec. 46-96 Sale–Holding periods, execution of bill of sale

(a) When any personal property, other than motor vehicles, is not redeemed within 30 days after being impounded, the chief of police shall sell such property at public auction to satisfy the lien of the city.

(b) When any impounded property is not redeemed by the date and time designated in the notice of sale, the chief of police shall sell such property at public auction, and, as auctioneer, shall execute a bill of sale of such property to the purchaser thereof, provided he shall not execute or deliver any but a conditional bill of sale unless, and until, the title of such buyer has become absolute by an expiration of 30 days in time, exclusive of the day of sale, without being redeemed by the owner of the impounded property.

(Code 1974, § 7-62)

Sec. 46-97 Same–Notices as to property

Before selling personal property, other than motor vehicles, and other than manufactured housing provided for in section 46-98, the chief of police shall post two notices thereof, one at the courthouse door of this county, and one at the main entrance of the city hall, and shall cause a copy thereof to be published in a newspaper of general circulation published in the city once a week for two consecutive weeks, the date of the first publication to be at least 14 days prior to the day of the auction sale. The notice of sale shall describe the impounded property, state that the property is unredeemed, state that the property will be sold at public auction, designate the place of sale, and state a time and date of sale which shall not be less than 14 days from the date of posting such notices as required in this section.

(Code 1974, § 7-63(a))

Sec. 46-98 Same–Manufactured homes

Before selling a manufactured home, including but not limited to mobile homes, HUD-code manufactured homes and any other form of manufactured housing as defined in Vernon's Ann. Civ. St. art. 5221f, the chief of police shall, 30 days prior to posting and publishing the notices required by section 46-97, obtain from the state department of labor and standards the name and address of the registered owner and of any lienholders of record, and send to all such parties a notice by certified mail stating that the manufactured home has been impounded, that the manufactured home is subject to sale by the city to satisfy impoundment and storage charges, and the procedure for redemption prior to such sale as provided in this article. Such notice must allow the recipient thereof at least 30 days after receipt to redeem such property prior to sale by the city.

(Code 1974, § 7-63(b))

Sec. 46-99 Same–Disposal of proceeds

After deducting the impounding fee and all other actual expenses incurred by the city in impounding, storing and selling of unredeemed property as determined by the chief of police, not to exceed a reasonable amount for each impounded article, the chief shall pay the balance of the proceeds of such sale, if any, to the owner of the property. If the owner fails to call for such proceeds, they shall be paid into the city treasury. Within six months after such auction sale, the owner may apply in writing to the chief of police, and upon satisfactory proof of ownership shall be entitled to receive the amount of the proceeds delivered to the city treasury.

(Code 1974, § 7-65)

Sec. 46-100 Junk

Impounded property which is offered for sale at public auction in accordance with the procedure prescribed in this article and upon which no person bids shall thereafter be sold or otherwise disposed of as junk. Money received for junk property shall be disposed of in the same manner as proceeds from an auction sale under this article.

(Code 1974, § 7-66)

Sec. 46-101 Records and fees

(a) The chief of police shall keep a record book which shall contain:

(1) A description of all property impounded;

(2) The date and time of such impounding;

(3) The date notices of sale were posted and advertised and mailed to owners and lienholders;

(4) The return receipts of registered notices;

(5) The date of the sale at auction;

(6) The amount realized for each article at such sale;

(7) The name and address of the owner and lienholders, if known;

(8) The name and address of the auction buyer; and

(9) Any other information as the chief of police may deem necessary.

(b) Fees, as set forth in chapter 30, shall be charged for the following services and paid into the city treasury for:

(1) Taking and impounding any personal property.

(2) Preparing advertisements of sale of each article.

(3) Selling each article.

(4) Posting notices of sale relating to any one article.

(Code 1974, § 7-67)

Cross reference–Fees for impoundment and disposition of abandoned, derelict, lost property, § 30-18.

Secs. 46-102–46-110 Reserved

Division 3. Abandoned Motor Vehicles*(53)

Sec. 46-111 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means a motor vehicle that is inoperable and more than five years

old and left unattended on public property for more than 48 hours, or a motor vehicle that has remained illegally on public property for a period of more than 48 hours, or a motor vehicle that has remained on private property without the consent of the owner or person in control of the property for more than 48 hours, or a motor vehicle left unattended on the right-of-way of a designated county, state, or federal highway within this state for more than 48 hours or for more than 12 hours on a turnpike project constructed and maintained by the state turnpike authority.

Motor vehicle means a motor vehicle subject to registration under the Certificate of Title Act, Vernon's Ann. Civ. St. art. 6687-1, except that for purposes of sections 46-112 through 46-114, "motor vehicle" includes a motorboat, outboard motor, or vessel subject to registration under V.T.C.A., Parks and Wildlife Code ch. 31.

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01.

Sec. 46-112 Authority to take possession of

(a) The police department may take into custody an abandoned motor vehicle found on public or private property.

(b) The police department may use its own personnel, equipment, and facilities or, if approved by the city council, it may hire persons, equipment and facilities to remove, preserve and store an abandoned motor vehicle it takes into custody.

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.02.

Sec. 46-113 Notification of owner and lien holders

(a) The police department, when taking into custody an abandoned motor vehicle, shall notify not later than the tenth day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record pursuant to the Certificate of Title Act, Vernon's Ann. Civ. St. art. 6687-1, or V.T.C.A., Parks and Wildlife Code ch. 31, that the vehicle has been taken into custody. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle; set forth the location of the facility where the motor vehicle is being held; inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the 20th day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if applicable. The notice shall state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) If the identity of the last registered owner of an abandoned motor vehicle cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this division. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in a valid notice given under this section.

(d) The police department, or an agent of the police department, when taking custody of an abandoned motor vehicle is entitled to reasonable storage fees for:

(1) A period of not more than ten days beginning on the day the department takes custody and continuing through the day the department mails notice as provided by this section; and

(2) A period beginning on the day after the day the department mails notice and continuing through the day any accrued charges are paid and the vehicle is removed.

(Code 1974, § 7-64)

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.03.

Sec. 46-114 Auction

If an abandoned motor vehicle has not been reclaimed as provided by section 46-113, the police department may sell the vehicle at a public auction. Proper notice of the public auction shall be given, and in the case of a garagekeeper's lien, the garagekeeper shall be notified of the time and place of the auction. The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under section 46-113. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for 90 days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs. The amount in the special fund that exceeds $1,000.00 may be transferred from the special fund to the general revenue account to be used by the police department.

(Code 1974, § 7-64)

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.04.

Secs. 46-115–46-135 Reserved

ARTICLE V. JUNKED MOTOR VEHICLES*(54)

Sec. 46-136 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Antique auto means a passenger car or truck that is at least 35 years old.

Collector means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles, or parts of them, for personal use in order to restore, preserve and maintain an antique or special interest vehicle for historic interest.

Demolisher means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Junked vehicle means any motor vehicle that is self-propelled and:

(1) Displays an expired license plate or invalid motor vehicle inspection certificate or does not display a license plate or motor vehicle inspection certificate; and

(2) Is:

a. Wrecked, dismantled or partially dismantled, or discarded; or

b. Inoperable and has remained inoperable for more than:

1. 72 consecutive hours, if the vehicle is on public property; or

2. 30 consecutive days, if the vehicle is on private property.

(3) For purposes of this article, "junked vehicle" also includes aircraft or watercraft and applies only to:

a. An aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft regulations in 14 C.F.R. Part 47; or

b. A watercraft that does not have lawfully on board an unexpired certificate of number and is not a watercraft described by V.T.C.A., Parks and Wildlife Code § 31.

Special interest vehicle means a motor vehicle of any age that has not been altered or modified from the original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

(Code 1974, § 7-75; Ord. No. 1956, § 1, 6-12-12)

Cross reference–Definitions and rules of construction generally, § 1-2.
State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01.

Sec. 46-137 Public nuisance declared

(a) A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the state by producing urban blight adverse to the maintenance and continuing development of the city, and is a public nuisance.

(b) A person commits an offense if that person maintains a public nuisance as determined under this article.

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.08(a), (b).

Sec. 46-138 Penalty for failure to abate or remove junked vehicle or part thereof

Any person who shall fail to abate or remove any public nuisance defined in this article upon the expiration of ten days from receipt of the notice herein provided for or within the period provided by any order of the municipal judge of the city following hearing as herein provided for shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined as provided in section 1-12 of this Code for violations of provisions governing public health and sanitation. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder. The court, upon determination of guilt of maintaining a public nuisance as defined in this article, shall further order removal and abatement of the public nuisance if it shall not have been theretofore abated or removed.

(Code 1974, § 7-79; Ord. No. 1077, § XIII, 5-12-92)

Sec. 46-139 Exception

The procedures in this article shall not apply to a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; a vehicle or vehicle part 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 an unlicensed, operable, or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery, or other appropriate means.

(Code 1974, § 7-76)

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(g).

Sec. 46-140 Nuisance on private property

For such a nuisance on private property, the city shall require that the nuisance be abated within ten days. The notice shall state the nature of the public nuisance on private property, that it must be removed and abated within ten days, and that a request for a hearing must be made before expiration of the ten-day period. The notice must be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, any

lien holder of record, and to the owner or occupant of the private premises on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return.

(Code 1974, § 7-77)

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(b).

Sec. 46-141 Nuisance on public property

For such a nuisance on public property, the city shall require that the nuisance be abated within ten days. The notice shall state the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten days, and that a request for a hearing must be made before expiration of the ten-day period. The notice must be mailed, by certified mail, with a five-day return requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle, or, if the last known registered owner is physically located, the notice may be hand delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten days after the date of the return.

(Code 1974, § 7-77(b))

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(c).

Sec. 46-142 Service of notice

The written notice provided for in this article to the occupant of the private or public premises whereupon such public nuisance is claimed to exist, or the owner or occupant of the premises adjacent to the public right-of-way whereupon such public nuisance is claimed to exist, as well as to the registered owner and all lien holders of record, shall be given by the chief of police of the city or his duly authorized representative.

(Code 1974, § 7-77(c))

Sec. 46-143 Public hearing

(a) If requested, before the removal of the vehicle or vehicle part as a public nuisance, a public hearing will be held. The hearing shall be held before the municipal judge. The addressee may request a public hearing prior to the removal of such vehicle or part thereof as a public nuisance by the city, provided a formal request for such public hearing is made by the addressee within such ten-day period provided for in such notice to the clerk of the municipal

court of the city. Such clerk shall set upon the docket of the municipal court a time for hearing upon the request of such addressee and shall advise the addressee thereof. Such hearing shall be a public hearing before the judge of the municipal court of the city for the purpose of determining whether or not such junked vehicle or part thereof which is the subject of such notice shall be within the provisions of this article and subject to abatement or removal.

(b) Upon hearing, the judge of the municipal court of the city shall issue an order indicating whether or not such junked vehicle or part thereof which was the subject of such notice is a public nuisance and, if this is so found, he shall order the removal and abatement of such public nuisance. In such event, the order requiring the removal or abatement of such nuisance shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle or part thereof, if available from inspection of such vehicle or part thereof at the site of its location.

(c) At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable.

(Code 1974, § 7-77(a), (b))

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(e).

Sec. 46-144 Notice of removal

Notice shall be given to the state department of highways and public transportation not later than the fifth day after the date of removal. The notice shall identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the certificate of title act, Vernon's Ann. Civ. St. art. 6687-1.

(Code 1974, § 7-78)

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(f).

Sec. 46-145 Junked vehicles not to be reconstructed

The junked vehicle may not be reconstructed or made operable after it has been removed.

(Code 1974, § 7-77(b))

Vernon's Ann. Civ. St. art. 4477-9a, § 5.09(d).

Sec. 46-146 Abatement or removal by city

If the junked vehicle or part thereof, which is the subject of the notice provided for in sections 46-140 and 46-141, is not abated or removed within the time period provided by the notice in such sections and a hearing is not requested, or, if the junked vehicle shall be ordered removed by the municipal judge following public hearing as provided in section 46-143, the police department may take the junked vehicle into custody and dispose of it in the manner and pursuant to the procedures provided for in section 46-147.

(Code 1974, § 7-78)

Sec. 46-147 Disposal of junked vehicles

A junked vehicle or vehicle part may be disposed of by removal to a scrapyard, demolisher, or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of section 46-145. The city may make final disposition of the vehicle or vehicle parts, or may transfer the vehicle or vehicle parts to another disposal site if the disposal is only as scrap or salvage.

(Code 1974, § 7-78)

State law reference–Similar provisions, Vernon's Ann. Civ. St. art. 4477-9a, § 5.10.

Sec. 46-148 Authority to enforce; right of entry

Any Euless Police Officer, and any other Euless employee whose duties include enforcement of the provisions of this Code of Ordinances, are hereby authorized to administer the procedures authorized by this article, and any such police officer or city employee may enter upon private property for the purposes specified herein to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal [of] a vehicle or vehicle part. The Euless Municipal Court shall issue appropriate orders necessary to enforce the procedures contained in this article.

(Ord. No. 1186, § I, 8-22-95)

Cross reference–Municipal court, § 2-136 et seq.

Secs. 46-149–46-170 Reserved

ARTICLE VI. NOISE*(55)

Sec. 46-171 Generally

(a) Any unreasonably loud, disturbing or unnecessary noise which causes material distress, discomfort or injury to persons of ordinary sensibilities in the immediate vicinity thereof is hereby declared to be a nuisance and is prohibited.

(b) Any noise of such character, intensity and continued duration which substantially interferes with the comfortable enjoyment of private homes by persons of ordinary sensibilities is hereby declared to be a nuisance and is prohibited.

(Code 1974, § 11-10)

Sec. 46-172 Enumerated

The following acts, among others, are declared to be nuisances in violation of this Code, but such enumerations shall not be deemed to be exclusive:

(1) The playing of any radio, phonograph or other musical instrument in such manner or with such volume, during the hours between 8:00 p.m. and 7:00 a.m., as to annoy or disturb the quiet, comfort or repose of persons of ordinary sensibilities in any dwelling, hotel or other type of residence.

(2) The use of any loudspeaker or amplifier of such intensity that annoys and disturbs persons of ordinary sensibilities in the immediate vicinity thereof, except by permit issued by the city council for nonpolitical purposes.

(3) The keeping of any animal or bird which by causing frequent or long, continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

(4) The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonably loud or harsh noise for any unnecessary and unreasonable period of time.

(5) The running of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud or unnecessary grating, grinding, jarring or rattling noise or vibrations.

(6) The blowing of any steam whistle attached to any stationary boiler, except to give notice of the time to begin or stop work or as a warning of danger.

(7) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine, except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

(8) The use of any mechanical device operated by compressed air, unless the noise to be created is effectively muffled and reduced.

(9) The erection, including excavation, demolition, alteration or repair work, on any building other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the city council, which permit may be renewed by the council during the time the emergency exists.

(10) The creation of any excessive noise on any street adjacent to any school or institution of learning, while such school or institution of learning is in session, or adjacent to any hospital, which unreasonably interferes with the workings of such institutions, provided conspicuous signs are displayed in a manner indicating that the street is a school or hospital street.

(11) The creation of any loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.

(12) The raucous shouting and crying of peddlers, hawkers and vendors which disturbs

the peace and quiet of the neighborhood.

(13) The use of any bell, drum, loudspeaker, whistle or other instrument or device for the purpose of attracting attention by the creation of noise to any performance, show or sale of merchandise.

(14) The parking or storage between the hours of 10:00 p.m. and 7:00 a.m. of any motor vehicle, with any motor affixed thereto, left in operation, for a period in excess of one hour, within a distance of 200 feet from any family dwelling.

(Code 1974, § 11-11)

CHAPTERS 47 - 49
RESERVED

CHAPTER 50
OFFENSES*(56)

ARTICLE I. IN GENERAL

Sec. 50-1 Reward for conviction of persons damaging public property; payment

(a) A standing reward of $100.00 is hereby offered by the city for the information leading to the arrest and conviction of any person who unlawfully, willfully, maliciously, wantonly, negligently or otherwise shall injure, deface, destroy, remove or knock down any real or personal property, street sign or traffic-control device belonging to the city within the city limits. Such reward is to be paid out of the general fund of the city to the person so furnishing the information leading to the arrest and conviction of persons guilty of such offense.

(b) The payment of such reward shall be made by the city manager upon the recommendation of the chief of police, who shall be the official of the city charged with the responsibility of making the determination as to whether or not the requirements for such reward provided in this section shall have been properly fulfilled.

(Code 1974, § 2-11)

Cross reference–Parks, recreational and cultural facilities, ch. 54; removing or mutilating public property in parks and recreation areas prohibited, § 54-109; streets and sidewalks, ch. 70; utilities, ch. 86.

Secs. 50-2–50-25 Reserved

ARTICLE II. CRIMINAL CODE*(57)

Division 1. Generally

Sec. 50-26 Discharging weapons

(a) Definitions. As used in this section, the following terms shall have the respective meanings ascribed to them:

Air gun means any weapon discharged and fired by means of forced air and shall be held to include, but is not limited to, the following: air rifles, air guns, air pistols, BB guns and other similar air-propelled weapons.

Firearm means any weapon from which a shot is discharged by an explosion and shall include, but is not limited to, the following: pistols, rifles, shotguns, sawed-off shotguns, machine guns, tear gas guns and other such similar weapons.

Pellet gun means any firearm, gun or weapon which fires or discharges a pellet, shot, ball or cartridge.

Spring gun means any spring-operated gun or weapon which fires or discharges a shot, cartridge, ball, pellet or other projectile.

Zip gun means any weapon made or constructed generally of pipe or tubing and operated or discharged by rubber or elastic force.

(b) Prohibited; exceptions. The firing, shooting, setting off or discharging of any firearm, air gun, pellet gun, spring gun, zip gun or other such weapon is prohibited within the city, except:

(1) By action of official and/or duly authorized police and peace officers engaged in the performance of duty or training; or

(2) By other persons in the time, place and manner expressly authorized by the city council under the terms of any specific use permit issued pursuant to the terms of the comprehensive zoning code of the city, chapter 94.

(Code 1974, §§ 11-13, 11-14)

Sec. 50-27 Curfew hours for minors

(a) Definitions. In this section:

Curfew hours means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day;

(2) 12:01 a.m. until 6:00 a.m. on any Saturday or Sunday; and

(3) Between 9:00 a.m. and 2:30 p.m. on Monday, Tuesday, Wednesday, Thursday, or Friday, while school is in session, a minor who remains, walks, runs, idles, wanders,

strolls, or aimlessly drives or rides about in or on a public place.

Emergency mean 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.

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

Guardian means:

(1) A person who, under court order, is the guardian of the person of a minor; or

(2) A public or private agency with whom a minor has been placed by a court.

Minor means any person under 17 years of age.

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

Parent means a person who is:

(1) A natural parent, adoptive parent, or step-parent of another person; or

(2) At least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

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

Remain means to:

(1) Linger or stay; or

(2) Fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious bodily injury means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

(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:

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 of Euless, 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 of Euless, a civic organization, or other 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 has been married or had disabilities of minority removed in 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 minor was present on the premises of the establishment during curfew hours and refused to leave.

(3) It is a defense to prosecution under subsection (a)(3) that:

a. The school the minor attends is not in session.

b. The minor is a high school graduate or has an equivalent certification.

c. The minor is on an excused absence from the minor's school, which in the case of a child being home schooled includes permission or absence from a parent.

d. The minor is on lunch break from a school that permits an open campus lunch.

e. The minor is off campus on a work study program.

(4) Subsection [(1)f.] is not a defense to violation 50-27(a)(3).

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

(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 juvenile court.

(Ord. No. 1144, § I, 7-12-94; Ord. No. 1229, § 1, 5-27-97; Ord. No. 1425, § 1, 5-9-00; Ord. No. 1592, § 1, 5-13-03; Ord. No. 1727, § 1, 3-28-06; Ord. No. 1831, §§ 1, 2, 9-23-08; Ord. No. 1843, § 1, 6-23-09; Ord. No. 1958, § 1, 6-26-12)

Sec. 50-28 Skateboarding, rollerskating and rollerblading prohibited in posted areas

(a) It shall be unlawful for any person to ride upon a skateboard, rollerskates or rollerblades upon any paved areas of property owned by the City of Euless upon which signs are prominently posted, as provided below, expressly prohibiting such conduct.

(b) Signs designating paved areas of city property upon which skateboarding, rollerskating and rollerblading are to be prohibited shall be prominently posted in a place or in sufficient places calculated to come to the attention of a child of tender years, of average intelligence, education level and eyesight. Such signs shall be not less than 12 inches in height with the words "NO SKATEBOARDING" "NO ROLLERSKATING" and "NO ROLLER BLADING" displayed at the top of the sign in letters not less than two inches in height, in a bold color sharply contrasting with the background color of the sign. Such sign shall also contain the following language, in letters not less than three-quarter inch in height "Skateboarding,

rollerskating and rollerblading in this area are prohibited by City Ordinance No. 1209. Violators are subject to a fine of up to $500.00."

(c) Any person found guilty in Euless Municipal Court of violating the provisions of this section shall be fined in an amount not less than $1.00 nor more than $50.00 for each violation.

(Ord. No. 1209, § 1, 8-13-96)

Secs. 50-29–50-45 Reserved

Division 2. Obscenity

Sec. 50-46 Scope

(a) Intent where text is not prominently featured. It is the intent of this division to include publications where the text is not prominently featured, but rather is incidental to the picture, being usually in the balloons that indicate the words spoken by the characters.

(b) News accounts not included. This division shall not be construed to apply to those accounts of crime which are part of the ordinary and general dissemination of news, nor to such drawings and photographs as are used to illustrate such accounts.

(c) Historical or literary publications not included. This division shall not be construed to apply to legitimate, illustrated or historical accounts of crime.

(Code 1974, § 11-33)

Sec. 50-47 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Obscene means offensive to chastity of mind or to modesty; expressing or presenting to the mind or view something that delicacy, purity and decency forbids to be exposed; offensive to modesty, decency or chastity; calculated to corrupt, deprave and debauch the morals of the people and promote violation of law; where the dominant theme of the material taken as a whole appeals to a prurient interest in sex; where the material is patently offensive because it affronts contemporary community standards relating to the description of representation of sexual matters; and where the material is utterly without redeeming social value.

(Code 1974, § 11-30)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 50-48 Obscene publications prohibited

It shall be unlawful for any person, with knowledge of the contents thereof, to sell, offer for sale, attempt to sell, exhibit, give away, keep in his possession with intent to sell or give away, or in any way furnish or attempt to furnish to any person any illustrated comic book, photographic

magazine or other publication which, read as a whole, is of an obscene nature.

(Code 1974, § 11-31)

Sec. 50-49 Certain crime publication prohibited

It shall be unlawful and an offense for any person, with knowledge of the contents thereof, to sell, offer for sale, attempt to sell, exhibit, give away, keep in his possession with the intent to sell or give away, or in any way to furnish or attempt to furnish to any child under 18 years of age any comic book, photographic magazine or other publication which, read as a whole, is concerned with an account of crime and which depicts, by the use of drawings, the following crimes as defined in the several chapters and articles of the penal code of the state:

(1) Administering poisonous and injurious potions.

(2) Aggravated assault.

(3) Arson and other willful burning.

(4) Assault in attempting burglary.

(5) Assault to maim or disfigure.

(6) Assault with intent to commit rape.

(7) Assault with intent to commit robbery.

(8) Assault with intent to murder.

(9) Burglary.

(10) False imprisonment.

(11) Kidnapping and abduction.

(12) Maiming and disfiguring.

(13) Malicious mischief.

(14) Murder.

(15) Rape.

(16) Robbery.

(17) Theft.

(18) Conspiracy to commit any of the foregoing offenses.

(Code 1974, § 11-32)

Sec. 50-50 Presumption from displaying

If any publication prohibited by this division shall be displayed in any newsstand, bookstore, drugstore, market or other mercantile establishment where the prohibited publication may be seen by any child under 18 years of age visiting such establishment, such display shall be prima facie evidence that the person in charge of such establishment was then exhibiting the crime comic book or other prohibited publication, with knowledge of the contents thereof, and intended to sell, offer for sale, furnish or attempt to furnish such prohibited publication to a child under 18 years of age in violation of this article, but it shall be competent for the defendant in any such case to show that no such intention existed.

(Code 1974, § 11-34)

Sec. 50-51 Display of sexually explicit material to minors

(a) Definition. In this section, "display" means to locate an item in such a manner that it is available to the general public for handling and inspection or that the cover or outside packaging on an item is visible to members of the general public without obtaining assistance from an employee of a business establishment.

(b) Offense. A person commits an offense if, in a business establishment open to persons under the age of 17 years, he displays a book, pamphlet, newspaper, magazine, film, or videotape with the knowledge that it depicts:

(1) Human sexual intercourse, masturbation, or sodomy;

(2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;

(3) Less than completely and opaquely covered human genitals, buttocks or that portion of the female breast below the top of areola; or

(4) Human male genitals in a discernibly turgid state, whether covered or uncovered,

in a manner calculated to arouse a sexual lust or passion for commercial gain, or to exploit sexual lust or perversion for commercial gain.

(c) Penalty for violation. Any person violating the terms and provisions of this section shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies.

(Code 1974, § 11-15; Ord. No. 1077, § XX, 5-12-92)

State law reference–Similar provisions, V.T.C.A., Penal Code § 43.21 et seq.

Sec. 50-52 Penalty

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be punished as provided in section 1-12. Each day that such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. If more than one publication prohibited by this article shall be offered, exhibited, kept or displayed in violation of this article, at the same location by the same person, the offer, exhibition, keeping or display of each separate prohibited publication shall constitute a separate offense and shall be punishable as such hereunder. If two or more prohibited publications are furnished or sold at the same time by the same person, the sale or furnishing of each shall constitute a separate offense and shall be punishable as such hereunder.

(Code 1974, § 11-35)

Secs. 50-53–50-68 Reserved

Division 3. Illegal Smoking Products and Ingestion Devices

Sec. 50-69 Purpose

The purpose of this article is to prohibit the use, possession, sale, ingestion or smoking of illegal smoking products and ingestion devices hereinafter defined within the city limits of the City of Euless.

(Ord. No. 1889, § II, 10-26-10)

Sec. 50-70 Definitions

The following words and phrases as used in this section shall have the meanings as set forth in this subsection.

Illegal smoking product shall mean any plant or other substance, whether described as tobacco, herbs, incense, spice, or any blend thereof, regardless of whether the substance is marked for the purpose of being smoked, which includes any one or more of the following substances or chemicals:

(1) Salvinorin A. Contained within the Salvia Divinorum plant, whether growing or not; or possessed as an extract, compound, manufacture, derivative, mixture, or preparation of such plant; or

(2) 2-[(1R, 3S)-3-hydroxycyclohexyl}-5-(2-methylocatan-2-y1) phenol (also known as CP 47, 497) and homologues; or

(3) 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-018); or

(4) Butyl-3(1-naphthoyl) indole (also known as JWH-073); or

(5) Any products sold, distributed or possessed in the form of incense or herbal smoking blends under the names such as “K-2,” “K-2 Summit,” “K-2 Sex,” “Genie,” “Spice,” “Dascents,” “Zohai,” “Sage,” “Pep Spice,” “Solar Flare,” “K-O Knockout 2,” “Spice

Gold," "Spice Diamond," "Spice Cannabinoid," "Yucatan Fire," "Fire N Ice," "Salvia Divinorum," or related products or chemicals when ingested produce intoxicating effects similar to marijuana.

Ingestion device shall mean equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:

(1) A metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;

(2) A water pipe;

(3) A carburetion tube or device;

(4) A smoking or carburetion mask;

(5) A chamber pipe;

(6) A carburetor pipe;

(7) An electric pipe;

(8) An air-driven pipe;

(9) A chillum;

(10) A bong; or

(11) An ice pipe or chiller.

Person shall mean an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.

(Ord. No. 1889, § II, 10-26-10)

Sec. 50-71 Violation

(a) It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.

(b) It shall be unlawful for any person to use or possess an ingestion device with the intent to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.

(c) The culpable mental state required by V.T.C.A., Penal Code Ch. 6.02, as amended, is specifically negated and dispensed with, and a violation is a strict liability offense.

(d) Any person, firm or corporation found to be violating any term or provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with section 1-12 of this Code. Each such violation shall be deemed a separate

offense and shall be punishable as such hereunder.

(Ord. No. 1889, § II, 10-26-10)

Sec. 50-72 Affirmative defense

(a) It shall be an affirmative defense for a person charged with an offense for possession or use of an illegal smoking product that the use or possession was pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.

(b) It shall be a primary affirmative defense that the sale or possession by a person of Salvinorin A was in conjunction with ornamental landscaping and used solely for that purpose.

(Ord. No. 1889, § II, 10-26-10)

CHAPTERS 51 - 53
RESERVED

CHAPTER 54
PARKS, RECREATIONAL AND CULTURAL FACILITIES*(58)

ARTICLE I. IN GENERAL

Sec. 54-1 Definitions

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

Park means all that land that may be selected, obtained or acquired by the city for use as parks, parkways, esplanades, median strips or grounds.

Playground means those areas of land that may from time to time be placed under the control of and used by the city parks and recreation department through the courtesy and in cooperation with the Hurst-Euless-Bedford independent school district or any other agency, corporation or individual.

Public right-of-way means the entire width between the dedicated boundaries of all public streets, roads, boulevards, alleys and includes all sidewalks and public parking strips located within any such boundaries.

Woody vegetation includes trees, shrubs, plants and any other vegetation with a woody stem.

(Code 1974, § 12-1; Ord. No. 1762, § I, 12-12-06)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 54-2 Penalty for violation of chapter

Any person violating any of the provisions of this chapter shall be deemed guilty of a violation of this Code and the person, or an employee, agent, manager or officer thereof, shall be punished as provided in section 1-12 for each offense, and each day's failure or refusal to comply with such provisions will constitute a separate offense, and in case of wilful or continued violations by any person as aforesaid, or his agents, employees, servants or officers, the city shall have power to revoke and repeal any license under which such person may be acting, and revoke all permits, privileges and franchises granted to such person.

(Code 1974, § 12-13)

Secs. 54-3–54-30 Reserved

ARTICLE II. ADMINISTRATION*(59)

Division 1. Generally

Sec. 54-31 Use of parks and playgrounds

It shall be unlawful for any individual or group of individuals to participate in any activity on any park or playground area when such activity will create a danger to the public or may be considered a public nuisance.

(Code 1974, § 12-2(a))

Cross reference–Fees for the use of recreation areas or facilities, § 30-27.

Sec. 54-32 Hours of operation; posting of signs

All parks will henceforth have hours of operation during which the public may use said park; those hours will be from 5:00 a.m. to 11:00 p.m. unless otherwise posted at a park or facility. It shall be unlawful for any person or persons to use, loiter, congregate, trespass or assemble in a park at times other than during the hours of operation, unless the use is for an event or sporting activity which is supervised and approved by the director of parks and community services, or his designee. The city manager may authorize hours of park use, different from those stated above, if the city manager deems it in the public interest. City employees and law enforcement officers, utility company employees and their contractors working within dedicated easements, or persons as otherwise designated by the city manager, may enter the aforesaid park at any time in the course of their employment.

(Code 1974, § 12-2(b); Ord. No. 1728, § I, 3-14-06; Ord. No. 1763, § 1, 11-28-06; Ord. No. 1953, § 1, 4-10-12)

Sec. 54-33 Swimming and boating activities prohibited

It shall be unlawful and an offense under this code for any person to swim in or operate or ride in any boat, canoe, kayak, any type of water craft or floatation device, in or upon any pond, lake or other body of water within any city park or playground or other city-owned property. This prohibition shall not apply to any public or private swimming pool located within the city.

(Ord. No. 1763, § 2, 11-28-06)

Secs. 54-34–54-45 Reserved

Division 2. Tree Board*(60)

Sec. 54-46 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Park trees means trees, shrubs, bushes and all other woody vegetation in public parks having individual names, and all areas owned by the city, or to which the public has free access as a park.

Street trees means trees, shrubs, bushes and all other woody vegetation on land lying between the curb, pavement line and the property lines on either side of all streets, avenues or ways within the city.

(Code 1974, § 2-86)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 54-47 Creation and establishment

There is hereby created and established a tree board for the city, which shall consist of the members of the parks and leisure services board of the city.

(Code 1974, § 2-87)

Cross reference–Streets and sidewalks, ch. 70.

Sec. 54-48 Operation

The tree board shall choose its own officers, make its own rules and regulations, and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

(Code 1974, § 2-90)

Sec. 54-49 Compensation

Members of the tree board shall serve without compensation.

(Code 1974, § 2-88)

Sec. 54-50 Duties and responsibilities

(a) It shall be the responsibility of the tree board to study, investigate, counsel and develop and/or update annually a written plan for the care, preservation, trimming, planting, replanting, removal or disposition of trees and shrubs in public ways, streets and alleys. Such a plan will be presented annually to the city council and, upon acceptance and approval of the city council, shall constitute the official comprehensive city tree plan for the city.

(b) The tree board, or its agent, shall be responsible for the planting, pruning and removal of all trees located within the street rights-of-way, easements, alleys and parks of the city. The owner of land abutting on any street may, when acting within the provisions of this chapter, prune, spray, plant or remove trees in that part of the street abutting his land. Permission of the tree board shall only be required when the owner of the abutting property intends to deviate from the rules and regulations contained in this chapter.

(c) The board, when requested by the city council, shall consider, investigate, make findings, report and recommend upon any special matter of question coming within the scope of its work.

(Code 1974, § 2-89)

Sec. 54-51 Street tree species to be planted

The following species of street trees may be planted in the city:

Small Trees	Medium Trees	Large Trees
Redbud	Golden raintree	Live oak
Hawthorn	Bald cypress	Bur oak
Flowering dogwood (except southwest part of city) Crepe myrtle	Sweetgum (except in southwest part of city) Caddo maple	Red oak (shumard) Water oak (except southwest city)
Japanese black pine Gum elastic Arizona cypress	Loblolly pine (except southwest part of city) Slash pine	Chinese pistachio Cedar elm Chinese tallow
Eastern red cedar	Big tooth maple	Southern magnolia
Mesquite	River birch	Pecan
Mexican plum	Deodar cedar	
Callary pear	Desert willow	
	Western soap berry	
	Chinese elm (parvifolia)	

(Code 1974, § 2-91)

Cross reference–Streets and sidewalks, ch. 70.

Sec. 54-52 Spacing of street trees

The spacing of street trees will be in accordance with the three species size classes listed in section 54-51, and no trees may be planted closer together than the following without approval of the tree board: small trees, 20 feet; medium trees, 30 feet; and large trees, 40 feet.

(Code 1974, § 2-92)

Sec. 54-53 Distance from curb and sidewalk

The distance trees may be planted from curbs or curblines and sidewalks will be in accordance with the three species size classes listed in section 54-51, and no trees may be planted closer to any curb or sidewalk than the following: small trees, two feet; medium trees, three feet; and large trees, four feet; in accordance with existing city ordinances.

(Code 1974, § 2-93)

Sec. 54-54 Distance from street corners and fire hydrants

No street tree shall be planted closer than 20 feet of any street corner, measured from the point of nearest intersecting curbs or curblines. No street tree shall be placed closer than ten feet of any fire hydrant.

(Code 1974, § 2-94)

Sec. 54-55 Obstructing utilities

No street trees other than those species listed as small trees in section 54-51 may be planted under or within ten lateral feet of any overhead utility wire, or over or within five lateral feet of any underground water line, sewer line, transmission line or other utility.

(Code 1974, § 2-95)

Cross reference–Streets and sidewalks, ch. 70; utilities, ch. 86.

Sec. 54-56 Trimming of trees and shrubs and corner clearance

(a) Every owner of any woody vegetation overhanging any street or right-of-way within the city shall trim the vegetation so that it shall not obstruct the light from any street lamp, obstruct the view of any intersection, obstruct the free passage of any sidewalk or the free passage of any street or alley designated for public use.

(b) All woody vegetation overhanging a public right-of-way used as a public street, or a platted alleyway used for mutual access, shall be maintained at a minimum height of 15 feet above the road surface measured at the back of the curb or one foot behind the edge of the pavement if there are no curbs present.

(c) All woody vegetation overhanging a public sidewalk or other right-of-way area not described in subsection (b) shall be maintained so that there shall be a clear space of eight feet above the surface of said sidewalk or right-of-way area.

(d) The city shall have the right to trim or cause to be trimmed any woody vegetation maintained in violation of this ordinance without notice to the property owner when necessary to effect removal of vegetation that is rendering a street impassable, or creating an immediate hazard to life or property. Property owners will receive 20 days' advance notice of the city's intent to perform routine trimming of woody vegetation overhanging the right-of-way from private property in violation of this section. The city, and any member of the city council, city staff or contract employee, or contractor when acting for the city, shall not be rendered personally liable for any damage that might occur to persons or property as a result of any act required or permitted in the discharge of his or her duties in enforcing this code.

(e) For purposes of the notification requirements listed under subsection (d), notification shall be made to the owner of record as reflected in the current tax roll. Notification can be made in person, by regular mail or through the use of a door hangar placed upon the front door of the property. A reasonable effort shall be made to notify an affected property owner of the city's intent to trim vegetation in violation of the ordinance overhanging public rights-of-way located adjacent to the owner's property. If personal service cannot be obtained and a valid address for a property owner cannot be obtained through the current tax roll, no further notification effort is required. No liability is assumed by the city, any member of the city council, city staff or contract employee, or contractor, if trimming occurs and notification was not made in accordance with this section for any reason.

(Code 1974, § 2-97; Ord. No. 1762, § 2, 12-12-06)

Sec. 54-57 Public tree care

The city shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure safety when servicing city utilities or to preserve the symmetry and beauty of such public grounds. The tree board may remove, or cause or order to be removed, any tree or part thereof which is located on public property or municipal utility easement which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is afflicted with any injurious fungus, insect or other pest.

(Code 1974, § 2-96)

Sec. 54-58 Interference with the tree board

It shall be unlawful for any person to prevent, delay or interfere with the tree board, or its authorized agents, while engaging in and about the planting, cultivating, mulching, pruning, spraying or removing of any street trees and park trees as authorized in this article.

(Code 1974, § 2-98)

Sec. 54-59 Review by city council

The city council shall have the right to review the conduct, acts and decisions of the tree board. Any person may appeal from any ruling or order of the tree board to the city council, who may hear the matter and make final decision.

(Code 1974, § 2-99)

Secs. 54-60–54-80 Reserved

ARTICLE III. PARKS AND RECREATION AREAS

Division 1. Generally

Secs. 54-81–54-90 Reserved

Division 2. Permits

Sec. 54-91 Designated use areas; overnight camping

(a) The director of parks and leisure services may designate particular locations within the park and playground areas for specific activities and, when deemed necessary, may limit the conduct of such activities by the issuance of special permits upon application, which permits shall set out the particular conditions under which such activity is permitted.

(b) Overnight camping is prohibited on any park property except by special permit issued by the director of parks and recreation for such activity on specific occasions.

(Code 1974, § 12-2(a))

Sec. 54-92 Special use permits–Generally

The regulation of hours and seasons of use, as provided in this division, may encompass the establishment of special use permits authorizing the use of such parks and playgrounds and the facilities therein by individuals or groups of individuals at other than the regularly established hours and seasons of use. In such event, such special use permits shall be issued by the director of parks and leisure services upon written application by the individual or group of individuals requesting a permit.

(Code 1974, § 12-2(b))

Sec. 54-93 Same–Application; terms

(a) Application for a special use permit shall be made to the director of parks and leisure services in form and manner as may be established by the director of parks and leisure services. A fee for the issuance of such special use permit may be established by the city council by appropriate entry in the city council minutes. Such fee, if any be established, shall be collected by the director of parks and leisure services at the time of issuance of a special use permit. Such special use permit shall indicate the individual or group of individuals to whom the special use permit is issued and shall further indicate any conditions imposed restricting the use thereof. The director of parks and leisure services is authorized to impose any restrictions and conditions deemed necessary as to use pursuant to any special use permit including, without limitation, restrictions on the duration and time of use, the number of individuals authorized for such special use, requirements that certain persons be in attendance and in supervision during

the periods of use and the establishment of additional fees or charges to compensate the city for expenses additionally incurred as to such special use.

(b) It shall be unlawful to be found in or to enter any park or playground or any facility therein at any time prescribed, as provided in this section, unless such presence is in full compliance with a special use permit issued by the director of parks and leisure services.

(Code 1974, § 12-2(b))

Sec. 54-94 Sale of merchandise

It shall be unlawful for any person to sell or offer for sale any food, drinks, confections, merchandise or services in any park or playground unless such person has a written agreement or a permit issued by the city permitting the sale of such items in such park or playground. Application for such agreements or permits shall be made to the city manager.

(Code 1974, § 12-5)

Cross reference–Businesses, ch. 18.

Secs. 54-95–54-105 Reserved

Division 3. Regulations

Sec. 54-106 Parking vehicles

(a) It shall be unlawful to park a motor vehicle, other than a city vehicle, within a park facility at any place not designated as a parking area. Motor vehicles in violation of this section may be issued a citation and/or towed and stored at the owner or operator's expense in accordance with state law. Exceptions may be granted by the director of parks and community services, or his designee, in specific instances where the number of dedicated spaces is not adequate to support certain events and/or programs sponsored by the city.

(b) Overnight parking. A person commits an offense by parking a motor vehicle within a park facility overnight except by special permit issued by the director of parks and community services, or his designee, for designated park areas. Motor vehicles in violation of this subsection may be issued a citation and/or towed and stored at the owner or operator's expense in accordance with state law.

(c) The parking of any truck tractor, trailer designed to be pulled by a truck tractor, tractor-trailer combinations or any vehicle rated at one and a half tons or greater capacity is specifically prohibited at park facilities, with the exception of city vehicles, vehicles operated by a public utility or contractor thereof who are operating within an approved utility easement, or vehicles involved in the maintenance or operations of the park or events in the park with the approval of the director of parks and community services or his designee. Refer also to section 82-89 of this Code.

(Code 1974, § 12-3; Ord. No. 1953, § 2, 4-10-12)

Cross reference–Traffic and motor vehicles, ch. 82; parking of motor vehicles, § 82-86 et seq.

Sec. 54-107 Use of roadways and paths

It shall be unlawful to operate, drive, or ride any motor vehicle within a park facility on a surface other than a publicly dedicated road, street, or parking lot. This provision is not applicable to city motor vehicles, emergency vehicles, or motor vehicles that have received a city permit authorizing their operation.

(Code 1974, § 12-4; Ord. No. 1953, § 3, 4-10-12)

Sec. 54-108 Erecting structures

It shall be unlawful to place or erect any structure, sign, bulletin board, post, pole or advertising device of any kind whatever in any park or playground, or to attach any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, fence, railing, post or structure within any park or playground; provided, however, the director of parks and leisure services may permit the erection of temporary decorations on occasions of public celebrations or holidays.

(Code 1974, § 12-6)

Sec. 54-109 Removing, mutilating property–Generally

It shall be unlawful to remove, destroy, mutilate or deface any structure, monument, statue, vase, fountain, wall, fence, railing, vehicle, bench or other property in any park or playground.

(Code 1974, § 12-7)

Cross reference–Reward for conviction of persons damaging public property, § 50-1.

Sec. 54-110 Same–Trees, shrubs, fences, etc

It shall be unlawful for any person to cut, break, deface or in any way injure the trees, shrubs, plants, grass, turf, fountains, seats, fences, structures, improvements, ornaments or monuments, or property within or upon any of the parks or playgrounds.

(Code 1974, § 12-8)

Sec. 54-111 Teasing, injuring or killing animals

It shall be unlawful to tease, annoy, molest, catch, injure or kill, or throw any stone, object or missile of any kind at, or strike with any stick, object or weapon any animal, bird, fowl or fish in any park or playground.

(Code 1974, § 12-9)

Cross reference–Animals, ch. 10.

Sec. 54-112 Concessions

The city council may, from time to time, upon the recommendation of the city manager, grant concessions for the operation of amusements, refreshment stands and related concessionaire facilities for operation in municipal parks and playgrounds. Any such concession shall be granted upon a written contract detailing the privileges, duties and responsibilities of the concessionaire and providing adequate protection for the city and its citizens.

(Code 1974, § 12-11)

Cross reference–Businesses, ch. 18.

Sec. 54-113 Alcoholic beverages prohibited

It shall be unlawful for any person to sell, bring into, possess or consume an alcoholic beverage in any park of the city except upon special permit granted by the city council upon application, which permit, if granted, may contain terms and conditions applicable thereto.

(Code 1974, § 12-12)

Cross reference–Alcoholic beverages, ch. 6.

Sec. 54-114 Swimming pool fees, hours of operation and general policy

Pool hours of operation and general policy involved in the operation of municipal swimming pools shall be established by the city council by proper entry in the council minutes upon the recommendation of the city manager and the director of parks and leisure services. Pool use fees shall be as set forth in chapter 30. The city manager and the director of parks and leisure services shall consult with the park and leisure services board in effecting general policy for the operation of municipal swimming pools and make such recommendations to the city council as may, from time to time, be deemed necessary and appropriate.

(Code 1974, § 12-10)

Cross reference–Swimming pool fees, § 30-26.

Sec. 54-115 Prohibited activities

The following actions are prohibited in all parks and recreational facilities of the city:

(a) Weapons. The possession or use of a firearm, pellet gun, air soft gun, paintball gun, bows and arrows, slingshots or any device capable of projecting any object which would or could create injury to another or wildlife or is otherwise considered a potential danger to the public; provided however, such prohibition shall not apply to the carrying of handguns by duly licensed peace officers or holders of valid concealed handgun permits or by special permit or prior written approval by the director of parks and community services and chief of police.

(b) Fireworks. Possession of fireworks is prohibited in the city per the adopted fire code as amended.

(c) Unauthorized entry onto reserved facilities/scheduled activities. Entry, occupancy or use of a reserved facility or area, or a location where scheduled activities are occurring, during the period that the area or facility is reserved or during the scheduled activity after the person has been given notice to leave. Reserved facilities and areas, and scheduled activities, include but are not limited to: indoor and outdoor facilities, meeting rooms, gathering areas, pavilions, gazebos, camps, classes, athletic fields and their support/adjacent areas and facilities.

(d) Restroom use. Refer to V.T.C.A., Penal Code tit. 5, ch. 21.07 as well as tit. 9, ch. 42.01.

(e) Controlled access. Entry into any controlled access portion of a park or park facility or any area specially designated as a restricted access area of any park facility, except by authorized city personnel.

(f) Environmental disturbance. Intentionally removing, damaging, defacing, cutting, scarring, marking, transplanting, breaking, picking, or in any way injuring, damaging, or defacing any plants, trees, shrubbery, vegetation, rock minerals, soil, turf, grass, and/or other personal or public property within or upon any parks, parkways, greenbelts, or other recreational areas. It shall further be unlawful to plant or remove any type of plant in any park, pathway, greenbelt, or other recreational area or facility without prior approval of the parks and community services director, or his designee.

(g) Fires. The starting of a fire except in enclosed fireplaces or grills provided for this purpose, except with written permission from the fire chief, or his authorized agent and/or representative, and the parks and community services director, or his designee, in designated park areas. Privately owned charcoal grills are not permitted on grass areas or on picnic tables located in parks. It shall be unlawful to leave a park area without extinguishing a fire.

(h) Golfing. The hitting of golf balls of any type in a park facility, except in areas specifically designated for this purpose.

(i) Erecting structures. Erecting any structure, sign, bulletin board, post, pole or advertising device of any kind whatever in any park or playground, or attaching any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, fence, railing, post or structure within any park or playground; provided, however, the director of parks and community services may permit, by written authorization, the erection of temporary decorations and/or structures on occasions of public celebrations or holidays or approved special event.

(j) Animals. Teasing, annoying, molesting, catching, injuring or killing, or throwing any stone, object or missile of any kind at, or striking with any stick, object or weapon any animal, bird, fowl or fish in any park or playground. Dogs or other animals are not permitted inside park facility buildings, playground areas, athletic fields, or at any city sponsored event where signs are visibly posted stating such. Any person accompanying a dog or other animal shall immediately clean up any feces left by

such animal. A person commits an offense if the owner or person that accompanies an animal fails to have in his or her possession, materials that can be used to immediately remove and dispose of any feces the animal produces. Animals that are trained to assist the handicapped are permitted in all park and recreation facilities.

(k) Use of parks and playgrounds. Any individual or group of individuals participating in any activity on any park or playground area when such activity will create a danger to the public or may be considered a public nuisance.

(l) Sale of merchandise. Selling or offering for sale any food, drinks, confections, merchandise or services in any park or playground unless such person has a written agreement or a permit issued by the city permitting the sale of such items in such park or playground.

(m) Swimming and boating activities. Swimming or operating or riding in any boat, canoe, kayak, any type of water craft or flotation device, in or upon any pond, lake or other body of water within any city park or playground or other city-owned property. This prohibition shall not apply to any public or private swimming pool within the city.

(n) Hunting. Hunting, trapping, killing, removing or releasing any animal in any park, greenbelt, open space or property managed by the parks and community services department. This provision does not apply to city employees while performing official city business.

(o) Discharging of pool water. Draining swimming pool back wash into a park or adjacent property. All swimming pool back wash and drainage shall be disposed of into the city sanitary sewer system through lines and equipment installed in accordance with the city plumbing code.

(p) Dumping in parks. Disposing of trash, tree limbs, brush, grass clippings, plants and any debris or material into a park or into any publicly controlled and/or maintained property.

(q) Alcohol. Selling, bringing into, possessing or consuming an alcoholic beverage in any park of the city except upon special permit granted by the city council upon application, which permit, if granted, may contain terms and conditions applicable thereto.

(r) Use of skateboards/in-line skates/scooters. Using skateboards, in-line skates and scooters except in designated locations and in accordance with posted rules.

(s) Use of tennis courts. City owned tennis courts shall be used only for playing tennis and not for any other purpose, such as skateboarding, rollerblading, roller skating, kickball, cricket, football, or handball.

(Ord. No. 1953, § 4, 4-10-12)

Secs. 54-116–54-135 Reserved

ARTICLE IV. LIBRARY*(61)

Sec. 54-136 Department; director

There shall be a department of city government to be known as the department of public libraries. Such department shall be under the supervision of the library manager, who shall be responsible for the conduct of the affairs and business of the public libraries of the city.

(Code 1974, § 12-30)

Cross reference–Officers and employees, § 2-116 et seq.

Sec. 54-137 Function; organization

The library board shall conduct its business at such times and under such rules and regulations as it may prescribe.

(Code 1974, § 12-32)

Sec. 54-138 Unlawful use of library materials; penalty for violation

(a) It shall be unlawful to willfully injure or deface any book, newspaper, magazine, pamphlet, manuscript or other property of the city library by writing, marking, tearing, breaking, mutilating or otherwise injuring or defacing such property.

(b) It shall be unlawful to retain any book, newspaper, magazine, pamphlet, manuscript or other property of the city library for a period of 30 days after the giving of written notice to return same, provided such notice is given after the expiration of time for which such property was lent under the then rules of the city library. The written notice provided for in this section shall be deemed given when same is deposited in the United States mail, postage prepaid, by registered or certified mail, to the person or entity to whom such property was lent. Such notice shall be given to the person or entity at the address reflected for such person or entity on the most recent library card of such person or entity according to the then records of the city library. The date for return of such property according to the then rules of the city library may be proven upon trial of any offense under this section, by the submission into evidence of the transaction records of the library. Proof of giving written notice as required in this section upon the trial of any offense under this section may be proven by submission into evidence of the registered or certified mail return receipt accompanying such notice as returned to the city library by the United States postal service, or a true and correct copy thereof, together with a copy of the form or notice then being given by such library. Failure of delivery of such notice by the United States post office shall not be deemed a defense to such offense, provided notice was mailed to the address of the defendant provided for in this section.

(c) Any person violating any of the terms and provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished as provided in section 1-12 of this Code. Each such violation shall be deemed a separate offense and shall be punishable as such under this article.

(Code 1974, § 12-33)

Sec. 54-139 Fees, expense charges and fines for the use of library facilities and materials

The city council, by resolution appropriately adopted, shall have the authority to establish, levy and change, from time to time, fines with respect to the use of library facilities and the use or detention of library materials. Such fines shall become effective when the resolution establishing or changing same is adopted by appropriate resolution of the city council. Fees and expense charges for the use of library facilities and materials shall be as set forth in section 30-28.

(Code 1974, § 12-34)

Cross reference–Library fees, § 30-28.

Secs. 54-140–54-160 Reserved

ARTICLE V. CITY YOUTH PROGRAMS STANDARDS OF CARE*(62)

Sec. 54-161 Youth programs standard of care adopted

The city council hereby adopts the City of Euless Youth Programs Standards of Care for providing basic child care regulations for day camp activities operated by the city parks and community services department. As required by V.T.C.A., Human Resources Code § 42.041(b)(14), the standards adopted by this article include staffing ratios; minimum staff qualifications; minimum facility, health, and safety standards; and mechanisms for monitoring and enforcing the adopted local standards.

(Ord. No. 1909, § 1, 4-26-11; Ord. No. 2030, § 1, 5-13-14)

Sec. 54-162 Copies of the standards of care

A substantial copy of the city youth programs standards of care is attached hereto and incorporated herein [by reference] for all intents and purposes.

(Ord. No. 1909, § 2, 4-26-11; Ord. No. 2030, § 2, 5-13-14)

Editor's note–It should be noted that the city youth programs standards of care are not set out at length herein but are on file and available for inspection in the office of the city secretary.

CHAPTERS 55 - 57
RESERVED

CHAPTER 58
PERSONNEL*(63)

ARTICLE I. IN GENERAL

Secs. 58-1–58-25 Reserved

ARTICLE II. CIVIL SERVICE SYSTEM*(64)

Sec. 58-26 Civil service commission

There is established a civil service commission to be comprised of three permanent members and as many alternate members as the city council shall appoint. Alternate members shall serve in the absence of permanent members and shall be called to serve in the order of their seniority. When sitting as commissioners, alternate members shall have the same power and authority as permanent members. The members of the commission shall be residents of the city and shall be appointed by the city council for a term of three years. The initial members of the commission shall be appointed for terms of one, two and three years, respectively, and all subsequent appointees shall be appointed for a full three-year term so that one member of the commission shall be appointed in each year. The city council shall have the authority to remove any member of the civil service commission at any time, without cause. The city council shall also fill, for the unexpired term thereof, any vacancies which may arise for any reason in the membership of the commission. The commission members shall receive no compensation other than travel expenses and other expenses incurred in the discharge of their duties. A majority of the members shall constitute a quorum.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-27 Chairman of the civil service commission

Annually a chairman shall be elected among the members of the commission. It shall be the function of the chairman to preside over meetings of the civil service commission and to report periodically to the city council.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-28 Provisions of the civil service commission

The civil service commission, with the advice and counsel of the city attorney and the city manager, shall prepare provisions consistent with this article for the administration of the civil service system as established hereby, which provisions shall become final upon approval of the city council. The commission and/or the city manager shall, from time to time, review such provisions and recommend modifications, amendments and changes thereto with the advice of the other to the city council, which modifications, amendments and changes shall become final upon approval of the city council. Such provisions shall establish procedures for:

(1) The proper conduct of the business of the commission;

(2) A system for the testing, examination and qualification of applicants for positions within the city;

(3) Certification to the appointing authority of those applicants qualified pursuant to the provisions of such commission;

(4) The establishment of provisions constituting cause for demotion, suspension or discharge of employees;

(5) Establishing a system of job descriptions and salary classifications, providing for vacations, sick leave, promotion, demotion, seniority, tenure, cutbacks, leaves of absence, discharge, suspensions and disciplinary action; and

(6) Procedures for the filing and determination of employee grievances and appeals.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-29 Employment requisites

No person making application for entrance into the civil service system of the city or seeking advancement therein shall be discriminated against as a result of religion, age, race, color, sex, national origin, disability, genetic information or veteran status.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-30 Status of present employees

This article shall in no way invalidate, modify or affect any prior act or ruling of the civil service commission nor any act or ruling of city officials pursuant to prior provisions of the civil service system.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-31 Exemptions from provisions

The provisions established for the civil service system shall exempt from their application the following:

(1) City manager, deputy city manager, assistant city manager;

(2) Assistants to the city manager;

(3) City secretary, deputy city secretary;

(4) City attorney;

(5) City engineer, assistant city engineer;

(6) Municipal judge;

(7) Directors, assistant directors, deputy directors;

(8) Police chief, assistant/deputy police chief, police captains;

(9) Fire chief, assistant/deputy fire chief, fire division chiefs;

(10) Administrators;

(11) General managers;

(12) Texas Star Golf Course and Conference Centre employees;

(13) Part-time and temporary employees; and

(14) Interns.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-32 Political activity of employees

No person under the civil service system shall be under any obligation to contribute to any political fund or to render any political service while in such employ. No employee shall seek or accept nomination or election to any office of the city nor shall any employee directly or indirectly solicit or receive or be in any manner concerned in soliciting or receiving any assessment, subscription or contribution for any political purpose whatsoever involving election to office with the city; nor shall any employee take part in political management or affairs or campaigns involving election to office with the city other than to cast his vote or express privately his opinion. No political activity shall be conducted in violation of the civil service provisions. The civil service provisions shall not prevent an employee from signing a petition for or endorsing for publication the election or recall of an elective official of the city, provided such employee does not circulate such petition or endorsement instrument.

(Ord. No. 1995, § 1, 5-28-13)

Sec. 58-33 Prohibited acts

No person shall make any false statement, certificate, mark, rating or report with regard to any test, certification or appointment made under any provision of the civil service provisions, or in any manner commit or attempt to commit any fraud preventing the impartial application of such system; nor shall any person, directly or indirectly, give, render, pay, offer, solicit, or accept any money, service or other valuable consideration for any appointment, proposed appointment, promotion or proposed promotion to, or any advantage in, a position of employment with the city. No person shall further defeat, deceive or obstruct any person in his right to examination, eligibility, certification or appointment under the civil service system or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the civil service system.

(Ord. No. 1995, § 1, 5-28-13)

CHAPTER 59
RESERVED

CHAPTER 60
ROBBERY CRIME PREVENTION

ARTICLE I. CONVENIENCE STORES AND CHECK CASHING BUSINESSES

Sec. 60-1 Definitions

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Check cashing business means an establishment that is engaged primarily in check cashing services or pay day loan advances, but provides little to no other banking services.

Convenience goods includes basic food, beverage, tobacco products, household, and/or pharmaceutical items.

Convenience store means any business that is primarily engaged in the retail sales of convenience goods and classified by section 84-84 of this Code as food stores less than 5,000 square feet of retail floor space. This definition also includes any business that is primarily engaged in the retail sale of gasoline classified by section 84-84 of this Code. Convenience store does not include any business where there is no retail floor space accessible to the public.

Drop safe means a cash management device where money can be deposited without the depositor having access to the contents.

Employee means any person who is employed in consideration of direct or indirect monetary wages, commissions, or profits, any contract employee, and any other person engaged in the operation of a convenience store or check cashing business.

Height strip means markings to aid in estimating the height of suspects.

Manager means the person designated by the owner to be responsible for the daily operation of a convenience store or check cashing business.

Police official means the chief of police or person he may designate to act as the official primarily responsible for the administration of this article.

Registered agent means the person identified by the owner of a convenience store in the

registration filed pursuant to this article that is authorized to receive on behalf of the owner any legal process and/or notice required or provided for in this article.

Safety training program means the training program promulgated by the police department for convenience stores or check cashing businesses, or a nationally recognized training program adopted by the police official.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-2 Registration of convenience stores and check cashing businesses

(a) It shall be unlawful for any person to own or operate a convenience store or check cashing business in the city that has not been registered as required by this section. No fee shall be charged for the registration required by this section.

(b) The owner of a convenience store or check cashing business shall register annually by providing to the police official the following information:

(1) The name, telephone number, facsimile number, and business or residence address of each owner; and if the owner is a corporation, whether foreign or domestic, the name of the registered agent of the owner and the telephone number and facsimile number and business or residence address of the registered agent, which address information shall include the street name and number, office or suite number if a business address, and the city, state, and zip code;

(2) The nature and extent of the owner's interest in the property; and

(3) The name telephone number, facsimile number, and business or residence address, including street name and number, city, state and zip code, of the current manager and, if the manager is other than an individual, the name, title, telephone number, facsimile number, and business or residence address, including street name and number, city, state and zip code of the individual to be contacted for any purpose under this article.

The use of a public or private post office box or other similar address shall not be sufficient for the purposes of complying with this subsection.

(c) Any change of ownership of a convenience store or check cashing business including, but not limited to, the sale of the convenience store or check cashing business, or any ownership interest therein, shall require the purchaser or transferee to update the information provided for under subsection (b) of this section and to file the updated information with the police official within 30 days of the effective date of ownership change. The same requirement shall apply to any change relating to the owner's registered agent and manager. A prior owner shall advise the police official that he no longer holds an ownership interest in the property.

(d) No certificate of occupancy shall be issued for a newly constructed or established convenience store or check cashing business until the owner has complied with the provisions of this article.

(e) After the owner of a convenience store complies with the provisions of this section, the police official will provide to the convenience store or check cashing business:

(1) A registration compliance decal which shall be displayed in a place visible to the public at the entrance door to the convenience store or check cashing business; and

(2) A registration statement, a true and correct copy of which shall be posted in the convenience store or check cashing business at all times in a conspicuous place accessible at all times to the public.

(f) Compliance with the requirements of this section shall be deemed to meet the requirements of V.T.C.A., Local Government Code §§ 250.003 and 250.004.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-3 Employee, manager, and supervisory safety training

(a) All newly hired employees, managers, and immediate supervisors of managers must complete a safety training program within 90 days of employment. Employees, managers, and immediate supervisors who are employed by a convenience store or check cashing business on the effective date of this article must complete a safety training program not later than 180 days following the effective date of this article.

(b) All persons who complete the required safety training program shall sign a statement indicating the date, time and place the safety training program was completed. The owner shall keep the statements or copies of the statements on file in the convenience store for at least two years and make them available to the police official immediately upon request.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-4 Height strips; protection of inventory

(a) An owner or operator of a convenience store or check cashing business shall have height strips posted at all public exits.

(b) An owner or operator of a convenience store or check cashing business shall secure, block, or mark off goods and inventory not available for sale in such a manner that customers cannot purchase such items while the establishment is open for business.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-5 Visibility

A convenience store or check cashing business shall maintain an unobstructed line of site allowing a clear view of and from the cash register and sales transaction area through all windows and public access doors. Such windows and doors must be clear of all items that would obstruct a clear view including, but not limited to, blinds, tinting, signage, advertisements, shelving, and merchandise. Such unobstructed line of sight must, at a minimum, create a three-foot vertical strip of visibility starting no lower than three feet above the ground and at a

minimum extending to six feet above the ground.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-6 Alarm system

(a) A convenience store or check cashing business shall have a silent panic alarm in accordance with chapter 26, article II of this Code. This system shall, at a minimum, include a panic button located within reach of the cash register and out of view of the customer. Such panic button will generate an alarm signal indicating a hold up or other life threatening emergency requiring a police department response.

(b) A convenience store or check cashing business shall have posted at all public exits and entrances signs or decals indicating that a security alarm is in use.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-7 Drop safe

(a) A convenience store or check cashing business shall have a drop safe on the premises to keep the amount of cash available to employees to a minimum. A drop safe must be bolted to the floor. A drop safe may have a time-delay mechanism to allow small amount of change to be removed.

(b) A convenience store or check cashing business shall have a cash accountability policy mandating the maximum amounts of cash that can be kept in cash registers.

(c) A convenience store or check cashing business shall have posted at all public exits and entrances signs or decals indicating that employees cannot open the safe and that employees have minimum cash on hand.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-8 Surveillance camera system

(a) A convenience store or check cashing business shall have a minimum of three color digital high-resolution surveillance cameras. The cameras shall have a minimum of 450 lines of resolution and a lux lower than 1. One camera shall be placed to capture view of the face of the customer at the service counter. Another camera shall be placed with the view of the main entrance/exit area. The third camera shall be placed with an exterior view of the parking lot.

(b) The entrance/exit area camera shall be placed to provide a clear and identifiable full frame of the filmed individual’s face entering or leaving the store.

(c) The cameras shall be functional and provide views unobstructed by inventory or other matter, 24 hours a day, including when convenience store or check cashing business is not open for business and shall display the date and time of the recording.

(d) The owner shall provide the police department with digital color images in connection with

crime investigations upon request.

(e) The owner shall maintain a library of the recorded digital images for not less than 30 days.

(f) A convenience store or check cashing business shall have posted at all public exits and entrances signs or decals indicating that surveillance cameras are in use.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-9 Automated teller machines

Automated teller machines in convenience store or check cashing business shall be securely bolted to the slab in four corners of the machine, with bolts of a minimum size of one and one-half-inch diameter and six inches deep in length.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-10 Applicability

This article shall apply as follows:

(a) For convenience stores or check cashing businesses, not currently in operation, or not possessing a completed building permit application, on the date of the passage of this article:

(1) Shall comply immediately with sections 60-2 (registration), 60-4 (Height strips and protection of inventory), 60-5 (visibility), 60-6 (alarm system), 60-7 (drop safe), 60-8 (surveillance camera system), and 60-9 (ATM).

(2) All employees, managers, and owners shall receive the training as required in section 60-3 not later than 180 days following the effective date of this article which shall be January 1, 2010.

(b) For convenience stores or check cashing businesses, in operation, or with a completed building permit application, on the date of the passage of this article:

(1) All employees, managers, and owners shall receive the training as required in section 60-3 not later than 180 days following the effective date of this article which shall be January 1, 2010.

(2) The owner or operator of a convenience store or check cashing business shall comply with sections 60-6 (alarm system), 60-7 (drop safe), 60-8 (surveillance camera system), and 60-9 (ATM) no later than one year from the effective date of this article which shall be January 1, 2010.

(3) The owner or operator of a convenience store or check cashing business shall comply with all other provisions of chapter 60, article 1, by January 1, 2010.

(Ord. No. 1862, § 2, 8-25-09)

Sec. 60-11 Penalty

Any person, firm or corporation violating any of the terms and provisions of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with chapter 1, section 1-12, of this Code. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder.

(Ord. No. 1862, § 3, 8-25-09)

CHAPTER 61
RESERVED

CHAPTER 62
SECONDHAND GOODS*(65)

ARTICLE I. IN GENERAL

Secs. 62-1–62-25 Reserved

ARTICLE II. OCCASIONAL OR GARAGE SALES

Sec. 62-26 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Occasional sales means any sale of tangible personal property at retail, including but not limited to garage sales, patio sales, yard sales and all other onsite sales in a residential district, as provided in this article, by a person who does not hold himself out as engaged or does not habitually engage in the business of selling tangible personal property at retail.

Retail sales means all retail sales except “occasional sales” as that term is defined in this section and as expressly prohibited by the zoning ordinance, chapter 94, and which are prohibited in all residential and multifamily zoning classification districts in the city.

(Code 1974, § 10-50)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 62-27 Locations and conditions of conducting

Occasional sales, including garage sales, patio sales and yard sales, are hereby permitted in

city zoning districts R-1 through R-5, provided that:

(1) The number of such sales shall not exceed two in number during any 12-month period.

(2) Such occasional sales are not conducted by any person or group of persons holding themselves out as engaged or who do in fact habitually engage in the business of selling tangible personal property at retail.

(3) The tangible personal property shall be sold only on the premises of the owner or lessee of the property where the sale is conducted and such owner or lessee must be the legal owner of such tangible personal property at the time of such sale.

(4) The sale shall be confined to the garage or patio on such premises.

(5) No new merchandise (i.e., merchandise acquired solely for the purpose of resale) shall be sold at such occasional sale.

(6) The duration of each such sale shall not exceed three consecutive calendar days.

(Code 1974, § 10-51)

Cross reference–Unified development code, ch. 84.

Sec. 62-28 Permit required; application; fee

(a) Any individual desiring to conduct an occasional sale shall obtain from the city manager, or his duly authorized representative, a permit to conduct an occasional sale.

(b) The application for such permit shall set forth the name, age and address of the applicant, and shall contain a statement that the provisions of this article have been read by the applicant and that he agrees to comply with all the provisions contained therein and all other ordinances and regulations of the city. Such application shall further contain the address and location of the proposed site where the occasional sale is to be conducted and the dates of all previous occasional sales conducted by the applicant within the last preceding 12-month period.

(c) Any person failing to comply with the requirements of this article and who acts in violation hereof shall be subject to the penalty imposed by section 62-29.

(d) The applicant shall pay a fee for such permit as set forth in chapter 30.

(Code 1974, § 10-52)

Cross reference–Permit fee for occasional and garage sales, § 30-22.

Sec. 62-29 Advertisement of occasional sales

One sign shall be permitted to advertise occasional sales as defined herein and such sign shall be provided by the city and must be placed upon the premises where the sale is taking place.

The city will also issue up to three more signs that may be placed in a location remote of the sale property providing the following conditions shall be met. All signs will remain 25 feet from all intersections, 10 feet behind all curbs and right-of-way and in no instance placed in any median. All signs shall be removed by the person conducting the sale immediately after the sale is completed.

(Ord. No. 1526, § II, 3-26-02)

Sec. 62-30 Penalty for violation of article

Any person who shall violate any of the provisions of this article or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor and shall be liable to punishment as provided in section 1-12, and each day such violation shall be permitted to exist shall constitute a separate offense. The owners of any building or premises, or part thereof, where anything in violation of this article shall be placed or shall exist, and who may have assisted in the commission of any such violation, shall be guilty of a separate offense and, upon conviction, shall be punished as provided in this section. The city, likewise, shall have the power to enforce the provisions of this article through civil court action as provided by state law.

(Code 1974, § 10-54; Ord. No. 1526, § I, 3-26-02)

CHAPTERS 63 - 65
RESERVED

CHAPTER 66
SOLID WASTE*(66)

ARTICLE I. IN GENERAL

Sec. 66-1 Container placement and removal time periods

Residential refuse and rubbish placed in garbage containers, residential repair debris, bundle or boxed bundle, bulky waste, and recycling collection, shall not be placed out for collection before 7:00 p.m. on the day prior to the scheduled pickup. Emptied containers shall be removed no later than 7:00 a.m. on the day after the scheduled pickup. Garbage and recycling containers not stored within the main structure or permitted accessory structure must meet the requirements in subsection 84-337(b), Open storage and use areas.

(Ord. No. 1972, § 1, 9-25-12)

Secs. 66-2–66-10 Reserved

ARTICLE II. SOLID WASTE SERVICES

Sec. 66-11 Definitions

Wherever used in this article, the hereinafter-listed terms shall have the following meanings:

Acceptable waste. Any and all waste that is solid waste, including brush, garbage, refuse, yard waste and trash, as solid waste is defined under the laws of the United States and/or the State of Texas and/or the regulations promulgated there under and that is acceptable for disposal in a landfill.

Backdoor service. Non-curbside service available to any residential customer over the age of 65 years old, or a disabled/handicapped resident as certified by a physician and at the discretion of the city.

Brush. Plants or grass clippings, leaves or tree trimmings. Brush waste must be enclosed in garbage containers, with a maximum weight of 50 pounds. Tree trimmings must be bundled in lengths less than four feet and less than 50 pounds in weight.

Bulky waste. Stoves, refrigerators, water tanks, washing machines, dryers, furniture, appliances and other waste materials with weights or volumes greater than those allowed for containers, but specifically excluding:

- Loose construction debris, dead animal's hazardous waste, medical waste or stable matter;

- Any refrigerators, freezers, air conditioners or other appliances that do not contain written or visual evidence that the chlorofluorocarbon's (CFC's), have been removed there from by a certified, authorized and licensed technician; and

- Any other objects or items that contractor is precluded by federal, state or local law or regulation from collecting or disposing in a municipal sanitary landfill.

Bundle or boxed bundle. Tree, shrub and brush trimmings, or newspapers and magazines securely tied together forming an easily handled package not exceeding four feet in length or 50 pounds in weight.

City. City of Euless.

Commercial container. Metal containers supplied by contractor affording capacity to service a commercial unit so as to prevent spillage, unsightly and unsanitary conditions.

Commercial hand collect unit. A retail or light commercial type of business that generates no more than two cubic yards of refuse per week.

Commercial and industrial units. Contractor shall provide for the collection of commercial and industrial solid waste and/or recyclables to commercial establishments and industrial units according to individual written agreements. Collection service shall be at least once per week to maintain the premises free of accumulation of waste. If collection is from a commercial container, that container should be located on a concrete pad to accommodate collection

equipment. The city shall be the sole determinant of acceptable dumpster pads, locations, and screening, excluding roll-offs. Apartment service shall be considered commercial as it relates to this agreement.

Contractor. The person or entity authorized by the city pursuant to a contract or franchise to perform solid waste collection services within the city.

Curbside. That portion of the right-of-way adjacent to paved or traveled city roadways.

Debris. Waste building materials resulting from construction, remodeling, repair or demolition operations, including without limitation, dirt, concrete, rocks, bricks, lumber, shingles, plaster, sand, gravel and other waste building materials.

Disposal site. A depository, including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separation centers licensed, permitted or approved to receive for processing or final disposal of solid waste by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.

Garbage. Any and all dead animals of less than ten pounds in weight except those slaughtered for human consumption; every accumulation of waste (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tin cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except (in all cases) any matter included in the definition of bulky waste, dead animals, hazardous waste, rubbish or stable matter.

Garbage containers. Portable cans or similar containers constructed of galvanized iron, tin or other substantial material, or plastic bags or cardboard boxes, designed to store refuse or rubbish with sufficient wall strength to maintain physical integrity when lifted by the top. The maximum capacity of a garbage container shall not exceed 35 gallons and the total weight of a garbage container and its contents shall not exceed 50 pounds.

Hazardous waste. All fecal material, oil, sludge and any radioactive, pathological, toxic, acidic or volatile materials, or any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State of Texas to be “hazardous,” “toxic” or a “contaminant” or “pollutant,” as such terms are defined by or pursuant to federal or state law or regulation. Refer to solid wastes regulated as hazardous under the Resource Conservation and Recovery Act, 42 U.S.C. Section 1002, et seq., or regulated as toxic under the Toxic Substances Control Act, 15 U.S.C.A. Section 2601 et seq., regulations promulgated thereunder.

Loose brush. Tree and shrub trimmings, which are not placed in disposable containers or reusable containers “nor” are they tied and bundled so as to constitute bundle or boxed bundle.

Medical wastes. All medical waste, infectious waste, special waste from health care facilities and other similar wastes as same may be defined by federal or state law or regulation.

Non-compactable waste. Includes, but is not limited to, brick, concrete, dirt, composition shingles, ceramic tile and related items that cannot be crushed under the weight of compaction equipment.

Refuse. Every accumulation of waste (vegetable and/or other matter) that results from the preparation, processing, consumption, dealing in, handling, packing, canning, storage, transportation, decay or decomposition of meats, fish, fowl, birds, fruits, grains, or other animal or vegetable matter including, but not by way of limitation, decomposable animal waste of vegetable matter which is likely to attract flies or rodents; and all waste material generated at a residential, commercial, industrial or institutional location, or construction site which must be disposed of to prevent the attraction of flies, rodents, scavengers, unnecessary odor or to prohibit unsightly accumulation of refuse or fire hazards. Refuse shall not include any waste materials included in the definition of “hazardous waste” or “medical waste”.

Residential repair debris. Small amounts of containerized or tied and bundled waste building materials including privacy fencing (provided such fencing materials do not exceed 4 ft. × 6 ft. in size or are dismantled and tied into bundles not exceeding 50 pounds) generated by a residential property owner or tenant remodeling or repairing a residential unit.

Residential unit. A single-family or duplex dwelling located within the corporate limits of the city. A separate residential unit shall be deemed occupied when either water or domestic electric power service is being supplied thereto. Each single-family dwelling within any condominium building or group shall be counted separately as a residential unit.

Rubbish. All residentially generated waste wood, wood products, grass cuttings, dead plants, weeds, leaves, chips, shavings, sawdust, printed matter, paper, pasteboard, rags, straw, used and discarded mattresses, white goods, pulp and other products such as are used for packaging or wrapping, crockery, glass, ashes, cinders, floor sweepings, mineral or metallic substances and any and all other waste materials not included in the definition of brush, bulky waste, bundle or boxed bundle, debris, residential repair debris, refuse, medical waste or hazardous waste.

Solid waste. All non-hazardous (as defined by Comprehensive Environmental Response, Compensation, and Liability Act (CERCA and other applicable laws) and non-special (see “special waste” definition) solid waste material including unwanted or discarded waste material in a solid or semi-solid waste, including but not limited to, garbage, ashes, refuse, rubbish, yard waste (including brush, tree trimmings, Christmas trees), discarded appliances, home furniture and furnishings, provided that such material must be of the type and consistency to be lawfully accepted at the landfill under the applicable federal, state and local laws, regulations and permits governing each.

Trees. Trees and tree trimmings larger than may be accommodated as bulky waste.

(Ord. No. 1972, § 1, 9-25-12)

Sec. 66-12 Scope of refuse collection work

(a) Frequency of residential collection. The city will provide for a contractor to collect all residential refuse and rubbish in garbage containers, residential repair debris, bulky waste, and

bundles or boxed bundles not less than two times per week, with collections at least three days apart. Collection days shall be Monday and Thursday or Tuesday and Friday. No collections shall be made on Sunday.

(b) Quantity; take-all service. The contractor shall be required to pick up all rubbish, refuse, bulky waste and residential repair debris generated from a residential unit, provided that same is properly prepared, bagged, and stored for collection in garbage containers, or properly bundled as provided in this article, although bulky wastes will not be required to be in garbage containers. The contractor shall also be required to pick up all brush and trees during the regular residential collection frequency provided that same are prepared and stored for collection in a bundle or boxed bundle. The contractor shall also be required to pick up stumps weighing less than 50 pounds each. At a customer's request, rubbish, residential repair debris, loose brush, brush and trees that are not contained in garbage containers or are not prepared and placed for collection in a bundle or boxed bundle may be collected and disposed of by the Contractor for a special pick up rate as set forth in chapter 30, "fees". Up to four times per year, Euless residents, with proof of residency such as a current water bill or valid driver's license, may dispose of up to ten (cubic yards of Acceptable Waste at the Contractor's transfer station located at 6200 Elliott Reeder Road, Fort Worth, Texas, at no charge. The transfer station is open to residential customers each Saturday between 12:00 noon to 4:00 p.m. This service does not include the disposal of hazardous waste or non-compactable waste.

(c) Residential waste–Where. Waste material set out for collection must be placed within six feet of curb and be properly prepared, bagged, and stored for collection in garbage containers, or properly bundled as provided in this article. The garbage containers must be freely accessible to the contractor, with the bottom at ground level or on a platform not more than three feet above ground. Backdoor service shall be in garbage containers and placed at a location mutually agreed to by Contractor and customer. Garbage containers stored below ground surface will not be picked up. Garbage containers, residential repair debris, and bundle and/or boxed bundle shall be placed as close to the roadway as practicable without interfering with or endangering the movement of vehicles or pedestrians. When construction work is being performed in the right-of-way, garbage containers, residential repair debris, bulky waste, and bundle and/or boxed bundle shall be placed as close as practicable to the access point for the collection vehicle. The contractor may decline to collect any garbage container, residential repair debris, bulky waste, and bundle and/or boxed bundle not so placed. all containers shall be returned by the contractor to the same area as described above.

(d) Residential waste–How. The contractor shall make collections with a minimum of noise and disturbance to the householder. This work shall be done in a sanitary manner. Any refuse or rubbish spilled by the contractor shall be picked up immediately by the contractor.

(e) Commercial waste. Every commercial unit shall have a commercial container or containers of a size sufficient to contain all the rubbish, refuse, brush, bulky waste, debris, trees and other waste generated upon the premises and to avoid congregation of flies, rodents, scavengers, unnecessary odor and to prohibit unsightly accumulation of such waste materials or fire hazards. The Contractor shall make commercial containers of adequate size available upon request to any commercial unit within the corporate limits of city. The commercial containers provided by the contractor shall be equipped with suitable operable covers to prevent blowing or scattering of refuse (except for roll-off containers); shall be maintained in good order, appearance, and in a sanitary condition; shall be of uniform color or color scheme;

and shall be clearly marked with the contractor's name and telephone number. Any damages to screening structures caused by the contractor will be repaired in a timely manner. Commercial containers shall be serviced at least once per week and with additional frequency as needed to maintain the premises free of accumulation of waste and to prohibit unsightly accumulation of such waste materials or fire hazards. The city will resolve any disputes between the contractor and a commercial unit account. The decision by the city will be final and binding on the contractor and the commercial unit customer.

(f) Christmas tree collection. The contractor shall provide annual curbside Christmas tree collection citywide for all residential customers one full collection cycle after both Christmas and New Year's. Dates may be modified by joint agreement of the contractor and the city manager. The City of Euless has its own Christmas tree collection location for recycling.

(g) Hazardous and medical waste. The disposal of hazardous waste and/or medical waste is not authorized as acceptable waste and the contractor is not required to dispose of same.

(Ord. No. 1972, § 1, 9-25-12)

Sec. 66-13 Hauling rights

The contractor approved by the city is granted the sole and exclusive franchise, license, and privilege within the city limits of the city to engage in the business of collecting and disposing of commercial construction debris, residential and commercial garbage, trash, yard waste, bulky waste, debris, residential repair debris, bundled brush, loose brush, rubbish, trees, refuse and other waste material as specified herein. No other person or entity not approved by the city council shall engage in the collection and disposal of commercial construction debris, residential and commercial garbage, trash, yard waste, bulky waste, debris, residential repair debris, bundled brush, loose brush, rubbish, trees, refuse and other waste material specified herein. Scavenging or hauling by other individuals on a non-fee basis shall be permitted.

(Ord. No. 1972, § 1, 9-25-12)

Secs. 66-14–66-30 Reserved

ARTICLE III. RECYCLING SERVICES

Sec. 66-31 Definitions

Wherever used in this article, the hereinafter-listed terms shall have the following meanings:

Apartment unit. A multifamily dwelling located within the corporate limits of the city. A separate apartment unit shall be deemed a room or suite of rooms arranged, designed or occupied as a residence.

City. City of Euless.

Contractor. The person or entity authorized by the city pursuant to a contract or franchise to perform recycling services within the city.

Curbside. That portion of the right-of-way adjacent to paved or traveled city roadways.

Recycling container. The container for recyclable materials for each residential unit or apartment unit within the city shall consist of one of the following;

- *Blue bag*. A polyethylene blue bag provided by the resident. These bags will be available for purchase at area retail stores. It is the responsibility of the resident- to provide their own blue bag container(s) for recycling.

- *Bin*. A plastic receptacle imprinted with the contractor's logo, provided by and the property of the contractor. Bin shall have a minimum capacity of 18 gallons. It shall be the responsibility of the contractor to supply, maintain and deliver the bin container for recycling to those residents who elect bin service.

- *Cart*. A plastic receptacle imprinted with the contactor's logo, provided by and the property of the contractor. The cart shall have a minimum capacity of 65 gallons, two wheels, and a hinged lid. It shall be the responsibility of the contractor to supply, maintain and deliver the cart container for recycling to those residents who elect cart service.

- *Recycling dumpster*. A metal receptacle bearing the contractor's logo, provided by and the property of the contractor. A recycling dumpster shall have a minimum capacity of eight yards and be identifiable as "recycling only". It shall be the responsibility of the contractor to supply, maintain and deliver the recycling dumpster to apartment units.

Recyclable materials. The following materials shall be included in the recycling program:

- Office paper

- Newsprint

- Magazines

- Aluminum beverage cans

- Steel/tin cans

- Glass: Clear, brown and green

- Plastic containers #1, #2, #3, #4, #5, #7

- Household paper products to include junk mail, envelopes, cereal boxes, cardboard, chipboard, and telephone books.

Residential unit. A single-family or duplex dwelling located within the city limits of the city. A separate residential unit shall be deemed occupied when either water or domestic electric power services are being supplied thereto. Each single-family dwelling within any condominium

building or group shall be counted separately as a residential unit.

(Ord. No. 1972, § 1, 9-25-12)

Sec. 66-32 Scope of recycling collection work

(a) Frequency of residential unit collection. The contractor shall provide curbside collection service for the collection of recyclable materials, on a coinciding garbage collection day, Monday or Thursday, or Tuesday or Friday, from each residential unit one time per week.

(b) Residential unit collection–Where. Recycling containers shall be placed at curbside by 7:00 a.m. on the designated collection day. When construction work is being performed in the right-of-way, recycling containers shall be placed as close as practicable to the access point for the collection vehicle. The contractor may decline to collect any recycling container not so placed. All containers must be returned to the same area as described above.

(c) Residential unit collection–How. The contractor shall make collections with a minimum of noise and disturbance. Work shall be done in a sanitary manner. Any recyclable materials spilled by the contractor shall be picked up immediately by the contractor. Residents shall have the opportunity to elect one of three types of recycling containers: blue bag, bin or cart. Resident will provide an adequate supply of blue bag containers. Contractor will provide an adequate supply of bin and cart recycling containers. Residential recycling container request for service, changes, additions or deletions will be facilitated by the city and supplied, delivered and maintained by the contractor.

(d) Frequency of apartment unit collection. The recycling dumpster shall be serviced on an on-call basis. Within 48 hours of a call by the apartment complex personnel, the contractor will service the dumpster as requested.

(e) Apartment unit collection–Where. A minimum of one recycling dumpster will be provided for each apartment complex. Apartment complexes with more than 500 units will receive one recycling dumpster per 500 units (example: 2,000 units = four recycling dumpsters). The recycling dumpster(s) must be readily identifiable as “recycling only” and kept in neat and clean appearance. The recycling dumpster(s) shall be accessible seven days per week, 24-hours per day by apartment residents.

(f) Apartment unit collection–How. The contractor shall make collections with a minimum of noise and disturbance. Work shall be done in a sanitary manner. Any recyclable materials spilled by the contractor shall be picked up immediately by the contractor. The contractor shall make available a minimum of one recycling dumpster, slotted to accept the following items: newspapers with slicks, magazines, junk mail, envelopes, cereal boxes, cardboard, chipboard and telephone books, mixed recyclables (plastics #1-7, except 6; aluminum cans, steel cans, glass bottles and containers). The city reserves the right to terminate and/or otherwise alter for further improvements, the apartment recycling service with 30 days prior notice to the contractor. The contractor has the first right of refusal on program changes.

(g) Improperly prepared material. The contractor will not be required to collect recyclable materials which are mixed with garbage, trash and rubbish normally collected by solid waste collection crews.

(Ord. No. 1972, § 1, 9-25-12)

Sec. 66-33 Hauling rights

The contractor approved by the city is granted the sole and exclusive franchise, license, and privilege within the city limits of the city to engage in the business of collecting and disposing of recyclable materials as specified herein. No other person or entity not approved by the city council shall engage in the collection and disposal of recyclable materials. Scavenging or hauling by other individuals on a non-fee basis shall be permitted.

(Ord. No. 1972, § 1, 9-25-12)

CHAPTERS 67 - 69
RESERVED

CHAPTER 70
STREETS AND SIDEWALKS*(67)

ARTICLE I. IN GENERAL

Sec. 70-1 Placing materials on streets

No person shall store, place, put or dump any lumber, wood, metal, rock, concrete, sand, gravel or any other material whatever, or any structure whatever, in or upon any street, alley or sidewalk in the city. This section shall not apply to any materials or structures necessary for the construction and/or the repair of any street, alley or sidewalk in the city while such work is in progress and then only until such construction and/or repair is completed.

(Code 1974, § 13-1)

Cross reference–Buildings and building regulations, ch. 14; businesses, ch. 18; nuisances, ch. 46.

Sec. 70-2 Extension of utility facilities without authority

No utility company operating within the city, without a specific franchise granted by the city, shall extend its pipes, lines, wires and facilities for the purpose of serving customers not theretofore served by it.

(Code 1974, § 13-2)

Cross reference–Businesses, ch. 18; utilities, ch. 86.

Secs. 70-3–70-35 Reserved

ARTICLE II. BARRICADES*(68)

Division 1. Generally

Sec. 70-36 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Contractor means any person, and the agents, representatives or employees thereof, performing any work upon, in, under, above or about any streets and alleys or public rights-of-way.

Detour means an alternate route in which vehicular traffic is directed around a street which is closed.

Emergency means an unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

Manual means the Texas Manual on Uniform Traffic-control Devices, latest revision.

Permit means written approval from the person designated by the city or his authorized representative.

Person designated by the city means the employee of the city designated by the city manager or city council to uphold the provisions of this article, or his authorized representative.

Public right-of-way means any public street, highway, roadway, alley or sidewalk within the city.

Shall, should or may. The word “shall” is a mandatory condition; the word “should” is an advisory condition to ensure safe operation conditions; and the word “may” is a permissive condition.

Street means a traveled way for vehicular or pedestrian traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, sidewalk, or however otherwise designated, within the city.

(1) *Major thoroughfares or arterial streets* means principal traffic arteries more or less continuous across the city which are intended to connect remote parts of the city and which are used primarily for fast or heavy volume traffic and shall include, but not be limited to, each street designated as a major street on the thoroughfare plan.

(2) *Collector streets* means those streets which carry traffic from minor streets to the major system of streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

(3) *Minor streets* means those streets which are used primarily for access to abutting

residential properties which are intended to serve traffic within a limited residential district.

(4) *Alleys* means minor traveled ways which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

(Code 1974, § 13-21)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 70-37 Applicability

Any person who undertakes to perform any work upon, in, under, above or about any public street, highway, roadway, alley or sidewalk, in this article collectively called public right-of-way, which requires that the street be partially or completely closed for construction and/or maintenance operation, which work shall require excavation within or occupancy of the whole or a portion of the width of any such public right-of-way by equipment, materials, debris or workers shall use barricades, signals, flags, flares, and all other traffic-control and warning devices and procedures about the work area during the duration of the work within the public right-of-way of the type and in the manner required by the uniform barricading standards adopted in this article.

(Code 1974, § 13-22(a))

Sec. 70-38 Plans

(a) Submitted by contractor. Any contractor undertaking any work, whether of his own or under contract for any other person, and such work is within a city street and requires that a set of plans be drawn up due to the extensive and/or complex nature of the work, will be subject to the provisions set forth in this article and must file for a permit before beginning construction. Proof must also be shown that he has obtained approval by other affected agencies of the city to actually perform the work.

(1) A plan must be prepared by the contractor showing where work is to be performed. The plan will include a standard barricading layout showing placement of barricades, cones and informational signs used on the project. In most cases, layouts will be similar to those shown in the latter part of the manual. Deviation from the manual will be allowed only with approval of the person designated by the city or an appointed representative.

(2) The plan as mentioned in subsection (a)(1) of this section must be submitted a minimum of five business days prior to actual beginning of the construction work. This time period will allow the person designated by the city the opportunity to survey the construction site in an attempt to uncover any traffic problems which might develop as a result of the barricading.

(3) Each contractor will provide with his barricading plan a listing of all persons directly responsible for the safety on each project, to include an address or telephone listing at which such persons can be reached at any hour of the day if a hazardous

condition develops.

(4) Construction work performed by a contractor, whether on his own or under contract for any other person, minor enough such that a set of plans need not be drawn up, will not be required to comply with the provisions of subsections (a)(1)-(3) of this section. Such work would include minor street construction, such as resurfacing, patching, striping. The contractor will be required, however, to comply with all other provisions set forth in the manual as to the construction site barricade layout and signing. In addition, the person designated by the city shall be contacted before such construction work is begun and be informed of the location and nature of construction. This work shall not be performed during the peak hour congestion periods of 7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m., unless approved by the person designated by the city.

(b) City prepared construction plans. If the work undertaken by the contractor is based on plans prepared by city, and such plans contain detour and barricading requirements, no permit shall be required by the contractor. The contractor's acceptance of the construction project shall constitute an acknowledgement that the contractor shall perform the work required in accordance with the detour and barricading requirements of such construction plans, and that the failure to perform such work in accordance therewith shall constitute a violation of this article and be subject to the penalties provided for in this article.

(c) Utility contractor and public utility companies.

(1) Utility contractors as well as utility companies performing construction work within a street which requires that a set of plans be drawn up due to the extensive and/or complex nature of the work, will be subject to the same requirements established in subsection (a) of this section. Such work would include major street construction (street cuts, street widening, etc.), water and sewerage line laying or relocation or off-street construction which requires that a portion of the adjacent roadway be barricaded.

(2) Construction work performed by utility contractors or utility companies, minor enough such that a set of plans need not be drawn up, will not be subject to the same requirements established in subsection (a) of this section. Such work includes minor street construction (resurfacing, patching, striping), minor utility work (usage of manholes such that a lane must be barricaded), etc. These forces will be required, however, to comply with all other provisions set forth in the manual as to the construction site barricade layout and signing. In addition, the person designated by the city shall be contacted before such construction work is begun and be informed of the location and nature of construction. This work shall not be performed during the peak hour congestion periods of 7:00 a.m. to 9:00 a.m., and 4:00 p.m. to 6:00 p.m., unless approved by the person designated by the city.

(Code 1974, § 13-25)

Sec. 70-39 Special requirements for safety and traffic control

(a) The person designated by the city may at the time of approving an application or any time

after a permit is issued require:

(1) The use or specific location of additional barricades, signals, signs or other traffic control or safety devices or the pursuance of special traffic-control or safety procedures;

(2) That the work be performed only at certain hours during the day or night, or during specified days of the week;

(3) That only a specified area or not more than a specified number of lanes shall be blocked at the same time or at specified times of the day;

(4) That materials and equipment used in the work site, and dirt removed from any excavation, be located other than in the vehicle traffic lanes of such roadway; and

(5) That all equipment be moved from the traffic lanes and any excavation in the traffic lanes be covered or filled with materials of sufficient strength and construction to permit vehicular traffic to pass over such excavation during all or part of the peak traffic periods or at night.

(b) When any special requirements as set forth in subsection (a) of this section are deemed necessary by the person designated by the city in the interest of public safety and to avoid traffic congestion, such special requirements shall be endorsed on the permit and shall be a part thereof.

(Code 1974, § 13-26)

Sec. 70-40 Emergency situations

The requirements set out in this article are to be used for all planned construction projects. In the event of an emergency type situation, notification of work to be done can be made by telephone directly to the person designated by the city, thereby bypassing the requirements mentioned in this article. Under these conditions, the contractor or agency will still be required to follow the basic barricading standards as outlined in the manual.

(Code 1974, § 13-30)

Sec. 70-41 Penalty for violation of article

Any person violating the terms and provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies. section 1-12.

(Code 1974, § 13-31; Ord. No. 1077, § XXII, 5-12-92)

Secs. 70-42–70-60 Reserved

Division 2. Permit

Sec. 70-61 Required

Any person who undertakes to perform any work upon, in, under, above or about any public right-of-way shall be required to obtain a permit from the person designated by the city if the specifications stated in section 70-38 are applicable, with the exception of the state department of highways and public transportation conducting work on any state designated system. In such cases, no permit is required. The permit must be acquired before construction is begun. The purpose of the permit is to ensure that ample consideration has been given to the effect of such construction work on the flow of traffic.

(Code 1974, § 13-22(b))

Sec. 70-62 Responsibilities of permit holder; manual adopted by reference

It shall be the responsibility of the permit holder to provide, erect, place and maintain all warning signs, traffic-control devices and barricades required by the person designated by the city or the Texas Manual on Uniform Traffic-control Devices, referred to in this article as “manual,” a copy of which is attached to the ordinance from which this article derives and incorporated in this article for all purposes just as if such manual were now set forth in full. All such signs, devices and barricades should be in good condition, clean and legible and shall be of the type required by the manual. When additional regulatory signs are deemed necessary by the person designated by the city, such signing will be installed as directed by the person designated by the city, along with such regulatory signs as are required to be provided by the city as required by the manual.

(Code 1974, § 13-22(c))

Sec. 70-63 Application, contents

When a permit is required, the permit application shall, unless otherwise authorized by the person designated by the city for good cause shown, be filed with the person designated by the city at least two days prior to the day the applicant seeks to first close or block any part of the roadway and shall contain the following information:

(1) The name, telephone number, local address and principal place of business of the applicant;

(2) The name and day and night telephone number of the engineer, foreman or other person who will be in charge of the construction or repairs for which the application is requested;

(3) The times of the day and total number of calendar days the applicant seeks to block the roadway;

(4) A statement signed by the applicant, or a person authorized to bind the applicant, that the applicant will indemnify and forever hold the city harmless against each and every claim, demand or cause of action that may be made or come against it by reason of or in any way arising out of the closing or blocking of the roadway by the

applicant under a permit from the city, if such permit is granted;

(5) A standard barricading layout showing placement of barricades, cones and informational signs used on the project;

(6) An explanation as to the nature or type of work that is to be performed along with its location; and

(7) Any other information deemed necessary by the person designated by the city.

(Code 1974, § 13-23)

Sec. 70-64 Permit fee

Any and all persons obtaining a permit from the city shall pay a fee, per permit, as set forth in chapter 30. Should more than one location be involved, a separate permit and fee shall be obtained for each location.

(Code 1974, § 13-24)

Cross reference–Permit fee for barricades for streets and sidewalks, § 30-29.

Sec. 70-65 Approval or disapproval of application

(a) The person designated by the city shall either approve or disapprove the application in five business days after it is submitted. The person designated by the city may approve an application either as applied for or subject to special requirements, as provided in section 70-39, which special requirements shall be endorsed on the permit when issued and become a part thereof. If an application is not approved, the person designated by the city shall so notify the applicant, in writing, stating the reasons for disapproval. An applicant may, if he so desires, undertake the revision of the unapproved application and resubmit it to the person designated by the city, who shall approve, approve subject to special requirements, or disapprove the amended application within five business days.

(b) The person designated by the city may disapprove applications for permits under this article only for the following reasons:

(1) The proposed barricading, channelizing, signing, warning or other traffic-control procedures or the equipment therefor do not comply with the requirements of the manual;

(2) The nature of the work to be performed or its location is such that the work may, without imposing any undue hardship on the applicant, be performed without the necessity of blocking or closing the roadway;

(3) The work or the manner in which it is to be performed will violate a city ordinance or a state statute;

(4) Failure to furnish all of the information required by this article or, except for good

cause shown, to file the application within the time prescribed by this article; and

(5) Misrepresenting or falsifying any information in the application.

(Code 1974, § 13-27)

Sec. 70-66 Revocation

The person designated by the city may revoke a permit issued under this article if any of the permit holder's barricading, signing, channelizing, warning or other traffic-control procedures, or the equipment at the work site, do not comply with the requirements of the manual, or with any special requirements imposed by the person designated by the city. The permit holder, or the person named as responsible for or in charge of the work in the permit, shall first be notified of the failure or defect and be given a reasonable time, such length of time to be determined by the person designated by the city and not to exceed 24 hours, to correct such failure or defect before such permit is revoked. If a permit issued under this article is revoked, it shall be unlawful to continue to block the roadway, except to restore the site to its proper condition as required in this article.

(Code 1974, § 13-28)

Sec. 70-67 Restoration of roadway

If a permit is revoked, the permit holder shall immediately commence operations to restore the work area within the roadway to its proper condition, such work to be completed within 24 hours. In addition, except as required to restore the work area to its proper condition, the permit holder shall remove all equipment, workers, materials and debris from the roadway. If such restoration is not done, the city shall be authorized, at its election, to take charge of the work and restore the premises to its proper conditions and shall be entitled to recover from the permit holder by civil action the actual expenses incurred for the materials, overhead, rental of any equipment used by the city in restoring the site, and attorney's fees, and for such purposes, the city shall have a right of action against any bonds in effect running from the holder of the permit to the city, conditioned upon compliance with the ordinances of the city in the performance of such work.

(Code 1974, § 13-29)

Secs. 70-68–70-79 Reserved

ARTICLE III. SOLICITATION

Sec. 70-80 Definitions

The following words and terms when used in this article shall have the following meanings:

Curb means the lateral lines of a roadway, whether constructed above grade or not, which are not intended for vehicular travel.

Improved shoulder means a paved shoulder.

Median means that area or portion of a divided street, road or highway within the city separating the two roadways of said street, road or highway and shall be held to include the curb, if any, at the outer edge of said area.

Public right-of-way means:

(1) That real property owned by the city, county, state or federal government or owned by a non-government entity or person, which property is dedicated to public use;

(2) Including but not limited to sidewalks, medians, curbs, shoulders, improved shoulders, roadways, walkways, paths and any other area so owned, dedicated, used or reserved for public use;

(3) Which is used or reserved for public use, including but not limited to use by vehicles, pedestrians and public utilities; and

(4) That is in the area extending from the right and left of the center line of a public street, roadway or highway to the nearest property line which marks the juncture of private property and public right-of-way.

Roadway means that portion of the public street which is improved, designed or ordinarily used for vehicular travel, exclusive of the curb, berm or shoulder. In the event that a public street includes two or more separate roadways, “roadway” means each roadway separately.

Shoulder means the portion of the highway that is:

(1) Contiguous to the highway;

(2) Designed or ordinarily used for parking;

(3) Set off from the roadway by different design, construction or marking; or

(4) Not intended for normal vehicular travel.

Sidewalk means that improved surface which is between the curblines, or the lateral lines of a roadway, and the adjacent property lines, and is improved and designed for or is ordinarily used for pedestrian travel.

Street or highway means the entire width between the right-of-way lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(Ord. No. 1136, § I, 4-26-94)

Sec. 70-81 Prohibited acts

(a) A person commits an offense if he or she stands on or in any manner occupies a

shoulder, improved shoulder, sidewalk, median or public right-of-way in the areas set out in section 70-82 to solicit or attempt to solicit a ride, employment or business or charitable contributions from the occupants of any vehicle, other than a lawfully parked vehicle.

(b) A person commits an offense if he or she stands on or in any manner occupies the shoulder, improved shoulder, sidewalk, median or public right-of-way in the areas set out in section 70-82 for the purpose of selling or offering for sale any product, property or service to the occupant of any vehicle, other than a lawfully parked vehicle.

(c) It is an exception to subsections (a) and (b) that the person engages in such conduct with another pedestrian.

(d) This section does not relieve responsibility for compliance with V.A.T.C.S. Article 6701d, section 81, Pedestrians on Roadways.

(e) This section does not relieve any person, firm or corporation from responsibility for compliance with any licensing, permitting or inspection provisions applicable to that person, firm or corporation or the business carried out by such person, firm or corporation, and contained elsewhere in this Code of Ordinances.

(Ord. No. 1136, § I, 4-26-94)

Sec. 70-82 Prohibited areas

No person shall engage in the acts set forth in section 70-81(a) and (b) at any time:

(1) Within 1,000 feet (measured to and from the nearest corner of the intersecting street, highway or roadway measured along the curb, shoulder, improved shoulder or public right-of-way line of the following intersections:

South Industrial Boulevard (FM 157) at West Euless Blvd.

North Industrial Boulevard (FM 157) at the North Service Road of Airport Freeway.

North Industrial Boulevard (FM 157) at the South Service Road of Airport Freeway.

and any portion of any exit ramp or entrance ramp within the aforesaid designated 1,000 feet.

(2) Within 500 feet (measured to and from the nearest corner of the intersecting street, highway or roadway measured along the curb, shoulder, improved shoulder or public right-of-way line of the following intersections:

North Industrial Boulevard (FM 157) at Trojan Trail.

North Industrial Boulevard (FM 157) at Midway Drive.

North Industrial Boulevard (FM 157) at Harwood Road.

North Industrial Boulevard (FM 157) at Glade Road.

North Euless Main Street at West Euless Boulevard.

North Euless Main Street at the North Service Road of Airport Freeway.

North Euless Main Street at the South Service Road of Airport Freeway.

North Euless Main Street at Midway Drive.

North Euless Main Street at Harwood Road.

North Euless Main Street at Mid-Cities Boulevard.

North Euless Main Street at Bear Creek Parkway.

Fuller-Wiser Road at Harwood Road.

Fuller-Wiser at Ash Lane.

West Euless Boulevard (S.H. 10) at Vine Street.

West Euless Boulevard (S.H. 10) at Ector Drive.

West Euless Boulevard (S.H. 10) at Wilshire Drive.

West Euless Blvd. (S.H. 10) at Westpark Way.

West Euless Blvd. (S.H. 10) at Raider Drive.

Westpark Way at the South Service Road of Airport Freeway.

Ector Drive at the North Service Road of Airport Freeway.

(Ord. No. 1136, § I, 4-26-94)

Sec. 70-83 Penalty for violation

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, thereof, shall be fined as provided in section 1-12 of the Code of Ordinances.

Any person, firm, corporation, agent or employee thereof who violates any of the provisions of this article shall be guilty of a misdemeanor and, upon conviction, thereof, shall be fined in an amount not to exceed $500.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

(Ord. No. 1136, § I, 4-26-94)

CHAPTERS 71 -77
RESERVED*(69)

CHAPTER 78
TAXATION*(70)

ARTICLE I. IN GENERAL

Sec. 78-1 Exemption of freeport goods

That Ordinance No. 1018 is hereby rescinded, and that tangible personal property located in the City of Euless and described in Article VIII, Section 1-j, Subsection (a), Texas Constitution, and Section 11.251, Texas Property Tax Code, shall be exempt from taxation and said exemption shall apply to each tax year that begins after the date this ordinance is approved.

(Ord. No. 1340, § I, 9-8-98)

Editor's note–Ord. No. 1018 was not included in the 1993 codification of this Code. At the city's request, Ord. No. 1340, adopted Sept. 8, 1998, was included to read as herein set out. See the Code Comparative Table.

Sec. 78-2 Taxation of tangible personal property in transit

Goods-in-transit personal property as defined by V.T.C.A, Tax Code § 11.253, shall be, and are hereby declared to be taxable by the City of Euless for tax year 2012 and for every year thereafter, as provided for and in accordance with V.T.C.A, Tax Code § 11.253.

(Ord. No. 1785, § 2, 9-11-07; Ord. No. 1930, § 2, 10-11-11)

Secs. 78-3–78-30 Reserved

ARTICLE II. AD VALOREM TAX*(71)

Division 1. Generally

Sec. 78-31 State law adopted on delinquent taxes

The provisions of V.T.C.A., Tax Code § 33.07, are hereby adopted whereby an additional penalty of 15 percent of the amount of delinquent taxes, and penalty and interest on delinquent taxes that become delinquent and remain unpaid on July 1, be imposed and collected on taxes becoming delinquent after January 1, 1982.

(Code 1974, § 5-01; Ord. No. 1095, § 7, 9-22-92)

State law reference–Delinquent ad valorem tax, penalty, V.T.C.A., Tax Code § 33.07.

Sec. 78-32 Additional penalty assessed on delinquent taxes

In addition to the penalty currently provided by law and ordinances of the city, there is additionally imposed, levied and assessed on all unpaid ad valorem taxes due the city from and after January 31 of the year following the levy and assessment of such taxes, interest at the rate of one percent for each month or any part thereof that such delinquent taxes shall remain unpaid. The interest rate provided in this section shall apply to all ad valorem taxes of the city delinquent and unpaid from and after January 31, 1982, and unpaid from and after the effective date of this section.

(Ord. No. 1038, §§ I, II, 11-13-90; Ord. No. 1095, § 5, 9-22-92)

State law reference–Penalty and interest, V.T.C.A., Tax Code § 33.01.

Sec. 78-33 Additional penalty for collection costs

The provisions of V.T.C.A., Tax Code § 33.08 are hereby adopted whereby an additional penalty be imposed, not to exceed 15 percent of the tax, regular penalty and interest, on delinquent taxes that become delinquent and remain unpaid on or after June 1 of the year in which they become delinquent.

That all 1998 taxes and taxes for all subsequent years which become delinquent on or after June 1 of the year in which they become delinquent shall, in order to defray costs of collection, incur an additional penalty of 15 percent of the tax, regular penalty and interest.

(Ord. No. 1393, § 1, 11-9-99)

Secs. 78-34–78-50 Reserved

Division 2. Homestead Exemption

Sec. 78-51 Residential homestead exemption for all property

There shall be exempted from the valuation of all residential homesteads, for which proper application shall have been made, an amount equal to 20 percent of the appraised value of such residential homestead, though in no event less than $5,000.00 of the appraised value of such residential homestead. The exemption shall be granted to any of such residential homesteads qualifying for such exemption, as provided by law.

(Code 1974, § 5-6; Ord. No. 1095, § 3, 9-22-92)

State law reference–Residential homestead exemption, V.T.C.A., Tax Code § 11.13(n).

Sec. 78-52 Homestead ad valorem tax exemption for persons 65 or over–Granted

From and after January 1, 2002, and upon compliance with the requirements set forth in this division, there shall be exempted the sum of $35,000.00 of the assessed value of residence

homesteads of residents of the city who are 65 years of age or older, from all ad valorem taxes thereafter levied by the city.

(Code 1974, § 5-1; Ord. No. 1044, § I, 1-22-91; Ord. No. 1095, § 4, 9-22-92; Ord. No. 1542, § 1, 8-13-02)

State law reference–Exemption for elderly, V.T.C.A., Tax Code § 11.13(d)-(f).

Sec. 78-53 Same–Application

To be eligible for the homestead exemption from ad valorem taxes levied by the city, the person seeking such exemption shall make application on forms prescribed by and pursuant to state law.

(Code 1974, § 5-2)

State law reference–Exemption procedure, V.T.C.A., Tax Code § 11.13.

Sec. 78-54 Residence homestead tax freeze for elderly or disabled persons

(a) Effective with tax year 2004, the total amount of ad valorem taxes imposed on the residence homestead of a person who is disabled or is 65 years of age or older shall not be increased while it remains the residence homestead of that person or that person's spouse who is disabled or 65 years of age or older.

(b) If the person who is disabled or is 65 years of age or older dies in a year in which the person received a residence homestead exemption, the total amount of ad valorem taxes imposed on the residence homestead shall not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is 55 years of age or older at the time of the person's death, subject to any exceptions provided by general law.

(c) Notwithstanding subsections (a) and (b), taxes on the residence homestead may be increased to the extent the value of the homestead is increased by improvements other than repairs and other than improvements made to comply with governmental requirements.

(d) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(e) In the event of a conflict between Article VIII, Section 1-b of the Texas Constitution and Section 11.261 of the Texas Tax Code with the general explanation of the tax limitation explained herein, the provisions of the Texas Constitution and the Texas Tax Code shall prevail.

(Ord. No. 1619, § 2, 1-13-04)

Secs. 78-55–78-75 Reserved

ARTICLE III. OCCUPATION TAX*(72)

Division 1. Generally

Sec. 78-76 Annual levy on state taxed occupations–Present

There is hereby levied, and there shall be collected from every person pursuing any occupation taxed by the general laws of the state, an annual occupation tax equal in each instance to one-half of the state occupation tax, except as otherwise provided in this Code, which taxes shall be paid annually in advance except where otherwise provided by state law, in which event such taxes may be paid as provided by state law.

(Code 1974, § 10-1)

Sec. 78-77 Same–Future

There shall be levied and there shall be collected from every person pursuing any occupation that may be taxed by the general laws of the state, an amount equal to one-half of such state occupation tax, except as otherwise provided in this Code, which shall be levied and collected as provided in section 78-76.

(Code 1974, § 10-2)

State law reference–Occupation tax on oil well services, V.T.C.A., Tax Code § 191.081 et seq.

Secs. 78-78–78-95 Reserved

Division 2. Coin-Operated Machines*(73)

Sec. 78-96 Levied

Every owner, operator, keeper and exhibitor of coin-operated machines, including, but not limited to, cigarette vending machines, food vending machines and all other machines operated by coin, shall pay the coin-operated machine occupation tax in section 30-21.

(Code 1974, § 10-7)

Sec. 78-97 Collection; receipt

The city shall collect the tax required by section 78-96 and shall issue on the payment thereof a proper receipt therefor to the owner of each coin-operated machine. It shall be unlawful to keep, operate or exhibit within the city any coin-operated vending machine without the owner or operator having in his possession a current receipt for payment of the tax required in this division.

(Code 1974, § 10-8)

Secs. 78-98–78-120 Reserved

ARTICLE IV. HOTEL OCCUPANCY TAX*(74)

Sec. 78-121 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Assessor-collector means the city manager, his/her successor, or his/her designated representative.

Consideration means the cost of the room in a hotel only if the room is ordinarily used for sleeping, and not including the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

Hotel means any building in which the public may, for a consideration, obtain sleeping accommodations, including, without limitation thereto, hotels, motels, tourist homes, houses or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but shall not include hospitals, sanitariums, or nursing homes.

Occupancy means the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping, and if such use, possession or right of use or possession at the time such room is provided under lease, concession, permit, right of access, license, contract or agreement is for a period of less than 30 consecutive days.

Occupant means anyone who, for a consideration, is entitled to occupancy of any room in a hotel under any lease, concession, permit, right of access, license, contract or agreement.

Person means any individual, company, corporation or association owning, operating, managing or controlling any hotel.

Quarterly period means 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.

(Code 1974, § 5-21; Ord. No. 1870, § 1, 2-23-10)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 78-122 Levy of tax; rate; exemptions

There is hereby levied upon the cost of occupancy of any room or space furnished by any hotel within the city where such cost of occupancy is the rate of $2.00 or more per day, a tax equal to the maximum tax then allowed by law to be assessed and levied by the city upon the consideration paid for the occupancy of such room to such hotel.

(Code 1974, § 5-22; Ord. No. 1318, § I, 3-12-98)

Sec. 78-123 Collection

Every person owning, operating, managing or controlling any hotel shall collect the tax imposed by this article for the city.

(Code 1974, § 5-23)

Sec. 78-124 Reports

On the last day of the month following each quarterly period, every person required by this article to collect the tax imposed in this article shall file a report with the occupancy tax assessor-collector showing the consideration paid for all room occupancies in the preceding quarter, the amount of tax collected on such occupancies, and any other information which the occupancy tax assessor-collector may reasonably require. Such person shall pay the tax due on such occupancies at the time of filing such report.

(Code 1974, § 5-24)

Sec. 78-125 Enforcement

The occupancy tax assessor-collector shall have the power to make such rules and regulations as are necessary to effectively collect the tax levied in this article, 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.

(Code 1974, § 5-25)

Sec. 78-126 Violation of article; penalty

(a) If any person required by the provisions of this article to collect the tax imposed in this article, make reports as required in this article, and pay to the occupancy tax assessor-collector the tax as imposed in this article shall fail to collect such tax, file such report, or pay such tax, or if such person shall file a false report, such person shall be deemed guilty of a class C misdemeanor in accordance with section 1-12 of this Code. A person violating a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued or permitted, unless otherwise provided.

(b) If any person shall fail to file a report as required in this article or shall fail to pay to the occupancy tax assessor-collector the tax as imposed in this article when such report or payment is due, there shall be forfeited as a penalty an additional amount of ten percent of the amount due for each month or part of a month after such delinquent payment was due, which penalty shall not exceed 50 percent, nor be less than $10.00. Delinquent taxes shall also draw interest at the rate of ten percent per annum beginning 60 days from the date due.

(Code 1974, § 5-26; Ord. No. 1870, § 2, 2-23-10)

Secs. 78-127–78-150 Reserved

ARTICLE V. BINGO TAX*(75)

Sec. 78-151 Imposed

There is hereby imposed, under the authority of the Vernon's Ann. Civ. St. art. 179d, referred to in this article as "the act," a gross receipts tax of two percent on the conduct of bingo games within the corporate limits of the city.

(Code 1974, § 5-31)

Sec. 78-152 State law adopted by reference

The act is incorporated in this article by reference as though set forth in full and all terms, authorizations, restrictions, provisions for license, control, reporting, computation, administration, collection, enforcement, operation and exemption provided for therein are given the same meaning, force and effect for purposes of this article and are adopted by reference.

(Code 1974, § 5-32)

Sec. 78-153 State alcoholic beverage commission authorized to be agent of city

The state alcoholic beverage commission, pursuant to the provisions of the act, is herewith specifically established and authorized as the agent and representative of the city in the administration, collection, enforcement and operation of the gross receipts tax provided for in this article.

(Code 1974, § 5-33)

Sec. 78-154 Penalty for violation of article

Any person violating the terms and provisions of this article shall be deemed guilty of a misdemeanor and shall be punished as provided in section 1-12 of this Code. Each day that such violation continues shall be a separate offense. This penalty shall be cumulative of all other remedies.

(Code 1974, § 5-34; Ord. No. 1077, § XI, 5-12-92)

Secs. 78-155–78-180 Reserved

ARTICLE VI. TELECOMMUNICATIONS SERVICES TAX*(76)

Sec. 78-181 Tax authorized; consummation of sales

A tax is hereby authorized on all telecommunications services sold within the city. 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.

(Code 1974, § 5-45(a))

Sec. 78-182 Repeal of state exemption

The application of the exemption provided for in V.T.C.A., Tax Code § 321.210, is hereby repealed by the city as authorized by such section.

(Code 1974, § 5-45(b))

Sec. 78-183 Rate of tax

The rate of tax imposed by this article shall be the same as the rate imposed by the city for all other local sales and use taxes as authorized by the state legislature.

(Code 1974, § 5-45(c))

Sec. 78-184 Ordinance to be forwarded to state comptroller

The city secretary shall forward to the state comptroller, by United States registered or certified mail, a copy of the ordinance from which this article is derived, along with a copy of the minutes of the city council's vote and discussion on such ordinance.

(Code 1974, § 5-45(d))

Sec. 78-185 Effective date of article

This article shall become effective as of October 1, 1987.

(Code 1974, § 5-45(e))

Sec. 78-186 Tax not to serve as an offset to or to reduce amount payable by providers of telecommunications services

The ordinance which enacted this article shall be, and it is hereby declared to be, cumulative of all other ordinances of the city, and such ordinance shall not operate to repeal or affect any of such other ordinances. The tax provided for in this article shall not serve as an offset to, be in lieu of, or in any way reduce any amount payable to the city pursuant to any franchise, street use ordinance, Charter provisions, statute or, without limitation by the foregoing enumeration, any other imposition of the city otherwise payable by any provider of telecommunications service; it being the express intent of this article that all such obligations, impositions and agreements of every kind and nature shall remain in full force and effect without reduction or limitation hereby.

(Code 1974, § 5-46)

Secs. 78-187–78-200 Reserved

ARTICLE VII. RESERVED*(77)

Secs. 78-201–78-299 Reserved

ARTICLE VIII. SHORT-TERM MOTOR VEHICLE RENTAL TAX

Sec. 78-300 Definitions

The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

City means the City of Euless, Texas.

Director shall mean the director or the director's designee of the department designated by the city manager to enforce and administer this article, or the director or the director's designated representative.

Gross rental receipts shall mean the value received or promised as consideration to the owner of a motor vehicle for rental of the motor vehicle, but does not include separately stated charges for insurance, charges for damages to the motor vehicle occurring during the rental agreement period, separately stated charges for motor fuels sold by the owner of the motor vehicle or discounts.

Mobile office means a trailer designed to be used as an office, sales outlet or other work place.

Motor vehicle shall mean a self-propelled vehicle designed principally to transport persons or property on a public roadway and includes a passenger car, van, station wagon, sports utility vehicle and truck. The term does not include a trailer, semitrailer, house trailer, truck having a manufacturer's rating of more than one-half ton or road building machine; a device moved only by human power; a device used exclusively on a stationary rails or tracks; a farm machine; or a mobile office.

Owner of a motor vehicle shall mean a person named in the certificate of title as the owner of the motor vehicle or a person who has the exclusive use of a motor vehicle by reason of a rental and holds the vehicle for the purpose of renting it to another person.

Person shall mean an individual, partnership, trust, company, corporation, association or other entity.

Rental shall mean an agreement by the owner of a motor vehicle that authorizes for not longer than 30 days the exclusive use of that motor vehicle to another person for consideration, where the transfer of possession of the motor vehicle occurs within the corporate limits of the city.

State legal holiday shall mean a date included on the list of legal holidays for banking purposes, which is published in the Texas Register for January 1 of each year by the Treasurer, or its successor, and distributed to each Texas state agency that receives reports or payments, pursuant to V.T.C.A., Tax Code § 111.053(b).

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-301 Tax imposed

There is hereby levied and imposed a tax at the rate of five percent on the gross rental receipts from the rental of a motor vehicle, except that the same exemptions provided in V.T.C.A., Tax Code ch. 152, subch. E [shall] apply [to] the tax imposed under this section. The tax imposed under this section must be collected on every rental occurring on or after February 1, 2000.

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-302 Collection of tax

Every owner of a motor vehicle who enters into a rental of a motor vehicle with any other person shall collect the tax imposed by this article on behalf of the city. The owner of a motor vehicle subject to the tax imposed by this article shall add the tax to the rental charge. Each bill or other receipt for a rental subject to the tax imposed by this article must contain a statement in a conspicuous location stating:

> The City of Euless requires that an additional tax of five percent be imposed on each motor vehicle rental for the purpose of financing certain projects under a revenue sharing agreement.
>
> An attorney acting on behalf of the city may bring suit against person who fails to collect the tax imposed hereby and to pay it over to the city or its designee as required by this article.

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-303 Tax reports and payment; records

On or before the last day of each calendar month, every owner of a motor vehicle required to collect the tax imposed by this article shall report and send to the city or its designee the taxes collected on behalf of the city for the preceding calendar month. If the date on which report or payment of any tax is due falls on a Saturday, Sunday or state legal holiday, the next day that is not a Saturday, Sunday or state legal holiday becomes the due date.

Any owner of a motor vehicle subject to the tax imposed by this article may deduct and withhold 0.5 percent of the amount of the taxes due from such person on a timely return as reimbursement for the cost of collecting the taxes imposed by this article.

Any owner of a motor vehicle subject to the tax imposed by this article who prepays such person's liability on the basis of a reasonable estimate of the tax liability for a month in which a prepayment is made may deduct and withhold 1.25 percent of the amount of the prepayment in addition to the amount permitted to be deducted and withheld as provided above. A reasonable estimate of the tax liability must be at least 90 percent of the tax ultimately due or the amount of the tax paid in the same month in the last preceding year. Failure to prepay a reasonable estimate of the tax will result in the loss of the entire prepayment discount.

Each owner of a motor vehicle used for rental purposes shall keep for four years records and supporting documents containing information on the amount of gross rental receipts received from the rental of the motor vehicle and the tax imposed by this article and paid to city or its designee on each motor vehicle used for rental purposes by the owner.

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-304 Penalties and interest for late filings

Any owner of a motor vehicle required to collect the tax imposed by this article who fails to file a report as required by this article or who fails to pay a tax imposed by this article when due forfeits five percent of the amount due as a penalty, and if such person fails to file the report or pay the tax within 30 days after the day on which the tax or report is due, the person forfeits an additional five percent. The minimum penalty provided by this section is $1.00.

A delinquent tax draws interest at the rate of 12 percent per annum beginning 60 days from the due date.

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-305 Collection procedures on purchase of a motor vehicle rental business

If the owner of a motor vehicle rental business that makes rentals subject to the tax imposed under this article sells the business, the successor to the seller or the seller's assignee shall withhold an amount of the purchase price sufficient to pay the amount of tax due until the seller provides a receipt from the director or the director's designee showing that the amount has been paid or a certificate showing that no amount is due.

The purchaser of a motor vehicle rental business 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.

The purchaser of a motor vehicle rental business may request that the director or the director's designee issue a certificate stating that no tax is due or issue a statement of the amount required to be paid before a certificate may be issued. The director or the director's designee shall issue the certificate or statement not later than 60 days after receiving the request.

If the director or the director's designee fails to issue the certificate or statement within the period provided above, the purchaser is released from the obligation to withhold the purchase price or pay the amount due.

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-306 Rules and regulations

The director or the director's designee shall have the power to make any rules and regulations necessary to effectively collect the tax authorized by this article. The director or the director's designee shall, upon giving reasonable notice, have access to all books and records necessary

to enable the director or the director's designee to determine the correctness of any report filed as required by this article and the amount of taxes due under this article.

(Ord. No. 1398, § II, 1-11-00)

Sec. 78-307 Penalties

An owner of a motor vehicle commits an offense if that person:

(1) Fails to collect the tax imposed by this article;

(2) Fails to file a report as required by this article;

(3) Fails to pay the tax when payment is due;

(4) Files a false report;

(5) Fails to make and retain complete records as required by section 78-303 of this article; or

(6) Fails to comply with section 78-305 of this article when purchasing a motor vehicle rental business.

(Ord. No. 1398, § II, 1-11-00)

CHAPTER 79
RESERVED

CHAPTER 80
TELECOMMUNICATIONS

Sec. 80-1 Findings and purpose

The purpose of this chapter is to:

(a) Assist in the management of the public rights-of-way in order to minimize the congestion, inconvenience, visual impact and other adverse effects, and the costs to the citizens resulting from the placement of telecommunications facilities within the public rights-of-way;

(b) Govern the provider's use and occupancy of the public rights-of-way;

(c) Compensate [the] city for the private, commercial use and occupancy of the public rights-of-way by telecommunications providers in a non-discriminatory and competitively neutral manner;

(d) Assist the city in its efforts to protect the public health, safety and welfare;

(e) Facilitate competition among telecommunications service providers and encourage the universal availability of advanced telecommunications services to all residents and businesses of the city;

(f) Conserve the limited physical capacity of the public rights-of-way held in public trust by the city.

This chapter may be referred to as the “telecommunications ordinance.”

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-2 Granting clause

Subject to the restrictions set forth herein, the city may consent to the non-exclusive right and privilege to use the public rights-of-way in the city by a provider for the operation of access lines in a telecommunications system, consisting of both telecommunications facilities and transmission media. The terms of this chapter shall apply throughout the city and to all operations of the provider within the city public rights-of-way, and in the public rights-of-way in any newly annexed areas in accordance with section 80-23 herein.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-3 Authority; scope

(a) This chapter applies to all telecommunications service providers under Title 47, Chapter 5, Subchapter II of the United States Code (47 U.S.C. § 201 et seq.) (“Title 47”) that place transmission media in, on or over public rights-of-way, excluding services provided solely by means of a wireless transmission. No municipal consent granted under this chapter authorizes the provision of any services not covered by Title 47. Cable service and open video systems as defined in Title VI of the Communications Act of 1934 [Title 47, Chapter 5, Subchapter V-A of the United States Code (47 U.S.C. § 521, et seq.)] and any other content service are expressly excluded.

(b) The right of a person to apply for or to use city utility infrastructure shall be governed by other provisions of the City Code. The granting of a municipal consent under this chapter does not grant attachment rights or authorize the use of city utility infrastructure.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-4 Definitions

In this chapter:

Access line means a unit of measurement representing: (1) each switched transmission path of the Transmission Media within the public rights-of-way extended to the end-user customer’s network interface within the city that allows delivery of telecommunications service; (2) each

separate transmission path of the transmission media within the city's public rights-of-way that terminates at an end user customer's network interface of each loop provided as an unbundled network element to a person pursuant to an agreement under Section 252 of the Federal Telecommunications Act of 1996 (47 U.S.C. § 252); or (3) each termination point of a non-switched telephone or other circuit consisting of transmission media connecting specific locations identified by, and provided to, the end-user for the delivery of non-switched telecommunications service within the city.

Access line fee means the amount in section 80-11 to be applied to each access line on a monthly basis for the calculation of the total amount to be paid to the city by the provider and/or any person using the facilities of provider for the creation of telecommunications service.

Affiliate means a person who controls, is controlled by, or is under common control with a provider. Affiliate does not include a person who serves end use customers by means of a wireless transmission. There is a rebuttable presumption of control if a provider owns 25 percent or more of the affiliate's stock or assets.

Certificated telecommunications utility means any entity that has been granted or applied for a certificate under Chapter 54 of Texas Utilities Code or other successor-authorizing certificate to provide local exchange telephone service.

City means the City of Euless, Texas. As used throughout, the term "city" also includes the designated agent of the city.

City manager means the city manager of the city or the city manager's designee.

Direction of the city means all ordinances, laws, rules, resolutions, and regulations of the city that are not inconsistent with this chapter and that are now in force or may hereafter be passed and adopted.

Facilities means any and all of the provider's duct spaces, manholes, poles, conduits, underground and overhead passageways and other equipment, structures, plant and appurtenances and all associated transmission media.

Municipal consent means the individual grant to use the public rights-of-way issued by the city and accepted by the individual providers under this chapter governing the provider's use of the public rights-of-way and the payment of compensation.

Person means a natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association, and other such entity.

Provider means a person, including any certified telecommunications utility, that delivers telecommunications service within the city to person(s) by way of a network, and that places facilities in, on or over the public rights-of-way. A provider does not include persons who are authorized by the city to occupy the public rights-of-way in specifically approved routes within the city, unless they also have a municipal consent under this chapter. To the extent allowed by law, provider also means a person that does not deliver telecommunications service within the city, but who uses, constructs or maintains facilities or transmission media within the public

rights-of-way.

Public rights-of-way means all present and future public streets, highways, lanes, paths, alleys, sidewalks, boulevards, drives, tunnels, easements or similar property in the city limits in which the city holds a property interest or exercises rights of management or control.

Telecommunications network or network means all facilities placed in the public rights-of-way and used to provide telecommunications service to the public.

Telecommunications service means the providing or offering to provide transmissions between or among points identified by the user, of information of the user's choosing, including voice, video or data, without change in content of the information as sent and received, if the transmissions are accomplished through a telecommunications network. Telecommunications service include ancillary or adjunct switching services and signal conversions rendered as a function of underlying transmission services, but excludes long distance transmissions (inter-LATA [Local Access Transport Area] and intra-LATA toll transmissions). Telecommunications service includes all communications services capable of being provided over a telephone system and certificated to telecommunications providers under the Texas Utilities Code, Title 2, Public Utility Regulatory Act, as amended, and Title II of the Communications Act of 1934, as amended, expressly excluding cable services or open video systems as defined in Title VI of the Communications Act of 1934, as amended. Also excluded are "wireless services" as defined by law.

Transmission media means any and all of the provider's cables, fibers, wires or other physical devices used to transmit and/or receive communication signals, whether analog, digital or of other characteristic, and whether for voice, data or other purposes.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-5 Municipal consent required

(a) Prior to placing, reconstructing, or altering facilities in, on or over the public rights-of-way, a provider must obtain a municipal consent from the city.

(b) The use of public rights-of-way for the delivery of any service not covered by this chapter is subject to all other applicable city requirements.

(c) Any provider with a current, unexpired consent, franchise, agreement or other authorization from the city ("grant") to use the public rights-of-way that is in effect at the time this telecommunications chapter takes effect shall continue to operate under and comply with that grant until the grant expires or until it is terminated by mutual agreement of the city and the provider and a municipal consent under this chapter is granted and in effect.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-6 Application for municipal consent

(a) A person must submit an application to the city manager to initiate the process to obtain a municipal consent.

(b) The application must be on a form prescribed by the city manager, and it must include the following:

(1) The identity of the applicant, including all affiliates of the applicant that may have physical control of the network, to the extent known at the time of the application;

(2) A general description of the services to be provided initially;

(3) With respect to post-application construction a route map of the applicant's proposed network, if any; and

(4) A description of the effect on the rights-of-way, of any post-application construction to the extent known, but not including routine maintenance and construction for additions to existing networks, except as may be required in section 80-17, including:

a. The location and route required for applicants proposed telecommunications network.

b. The location of all overhead and underground public utility, telecommunication, cable, water, sewer, drainage and other facilities in the rights-of-way along the proposed route.

c. The specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.

(5) While not a requirement for the issuance of a municipal consent, if applicable, the applicant shall provide:

a. Evidence that the applicant holds or has applied for a Public Utility Commission of Texas Certificate and information to establish that the applicant will obtain all other governmental approvals and permits prior to construction.

b. Certification or other documentation to evidence the Public Utility Commission of Texas or any other required governmental approval showing compliance with E911 requirements of Chapters 771 and 772 of the Texas Health and Safety Code on Emergency Communication, and the Texas Public Utility Council Substantive Rules on interconnection, particularly Section 80.97(a), (d) and (e), as amended.

(6) Such other and further information as may be reasonably requested by the city manager as it relates to the use of the public rights-of-way.

(c) Each applicant that shall submit a non-refundable application fee of $850.00 with the application, with a credit in the amount of $850.00 on its first quarterly payment due under section 80-12.

(d) The city manager shall review an application submitted under this chapter and shall

recommend to the city council that it grant or deny the application. The city manager shall make recommendation to the city council as soon as practicable, but no later than the 90th day after a completed application has been filed. Upon mutual written agreement between the city and the provider, action on an application may be postponed for one or more periods not exceeding 30 days each.

(e) Except for delay caused by the applicant, the city council must take an initial action on the city manager's recommendation within 45 days after receipt by the council of the city manager's recommendation or the city manager's recommendation to grant an application shall be deemed approved. No city council action is required to confirm a denial recommendation, except acknowledgment of receipt of the recommendation.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-7 Municipal consent ordinance

(a) If the city manager finds that the application meets the requirements of this chapter, the city manager shall request the city attorney or designee to prepare a municipal consent ordinance for the city council's consideration.

(b) A municipal consent ordinance submitted to the city council must include the following provisions:

(1) A term of not more than five (5) years for the municipal consent;

(2) A requirement that the provider substantially comply with this chapter;

(3) A requirement that the provider's municipal consent is subject to termination by the city council, after notice and hearing, for the provider's failure to comply with this chapter or on a showing that the provider has breached the terms of the municipal consent;

(4) A provision that incorporates the requirements of section 80-14 [Transfer] of this chapter;

(5) A provision that incorporates the requirements of sections 80-17 [Construction Obligations], 80-18 [Conditions of Public Rights-of-Way Occupancy], 80-19 [Bond Requirements], and 80-20 [Insurance Requirements] of this chapter, if applicable;

(c) Review and approval by the city does not constitute a guarantee of sufficiency of the design of the telecommunications network. The applicant retains full responsibility for the adequacy of the design of the telecommunications network.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-8 Petition for reconsideration

A person whose application for a municipal consent is denied, or whose application is not considered by the city council within a reasonable time after the city manager submits a

recommendation under section 80-7 or whose municipal consent is terminated may petition the city council for reconsideration before seeking judicial remedies. A petition for reconsideration is considered denied if the city council does not act within 60 days after the petition is filed with the city secretary.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-9 Administration and enforcement

(a) The city manager shall administer this chapter and enforce compliance with a municipal consent conveyed under this chapter.

(b) A provider shall report information related to the use of the public rights-of-way that the city manager requires in the form and manner prescribed by the city manager.

(c) The city manager shall report to the city council upon the determination that a provider has failed to comply with this chapter.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-10 Applicability

(a) Sections 80-17 [Construction Obligations], 80-18 [Conditions of Public Rights-of-Way Occupancy], 80-19 [Bond Requirements] and 80-20 [Insurance Requirements] of this chapter apply only to a provider that constructs, operates, maintains, owns or controls facilities in the public rights-of-way.

(b) Section 80-21 [Indemnity] of this chapter applies to a provider that has a property interest in a network.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-11 Compensation to city

A provider shall compensate the city by payment of the fees as provided below:

(a) Access line fee calculation. To compensate the city for the use of the rights-of-way, [the] provider whose telecommunications network is used to serve persons in the city shall pay the city a monthly fee to be calculated as provided below for each access line owned or used by the provider, as calculated as of month-end, that is activated for use by an end user customer of the provider or of another person as a certificated telecommunications utility, by lease or otherwise, subject to subsection (f) below or of any other person;

(1) Access line fee calculation amount:

a. Following the effective date of the municipal consent, a provider shall submit to the city manager on a quarterly basis, a certified statement together with the access line fee payment under section 80-12, indicating

the number of access lines used to provide telecommunications service at month end, for each month of the quarter and for each customer class identified herein. The statement shall be provided on a form prescribed by the city manager.

b. For each month of the quarter following the effective date of the municipal consent, a provider shall pay an access line fee, which is based upon its number of access lines calculated in accordance with maximum rates set by the Public Utility Commission of Texas.

(To the extent allowed by law, and not at the direction or request of the city, pursuant to Texas Utilities Code Section 54.206, a provider has the discretion to collect the access line fee imposed by the city pursuant to this chapter through a pro rata charge to the customers in the boundaries of the city, including from any other persons who are leasing, reselling, refunding or otherwise using the provider's access lines to provide telecommunications service.)

(For purposes of this section only, lines terminating at customers with "Lifeline," "Tel-Assistance," or other service that is required to be similarly discounted pursuant to state or federal law or regulation for the purpose of advancing universal service to the economically disadvantaged shall not be included in the lines upon which the fee is calculated, but provider shall provide information on the number of such lines upon request by the city.)

(2) Number of access lines. Subject to city's agreement not to disclose this information unless required by law, [the] provider agrees to provide annually or as requested by the city, within a reasonable time after receipt of the city's written request, a report showing the number of access lines being maintained or operated by [the] provider that are serving premises within the city. The city agrees that the report shall be used solely for the purposes of verifying the number of [the] provider's access lines serving premises within the city. Upon written request, [the] provider shall verify the information in the report and, upon reasonable advance notice, all non-customer specific records and other documents required for such verification shall be subject to inspection by the city expressly excluding any records, documents or other writings the disclosure of which is prohibited by state or federal law, including the Electronic Communications Privacy Act, 18 U.S.C. § 2701 et seq.

(b) Minimum annual fee. Notwithstanding any other provision in this chapter, for all new installations of facilities placed in, on or under the public rights-of-way from the effective date of the municipal consent, and for each calendar year period thereafter, the provider shall pay the city a minimum annual fee of $250.00 ("minimum fee"), in the event the annual access line fee does not exceed $250.00, with a credit against the minimum fee from any access line fee paid to the city during the previous 12 months.

Each municipal consent shall provide that the minimum fee of (b) above may be adjusted once every three years by the city, but such adjustment shall not exceed $100.00 in any one three-year period.

(c) Confidential records. If the provider notifies the city by a conspicuous written notation of the confidential nature of any information (including, but not limited to the information in paragraph (b) of this section), reports, documents, or writings, the city agrees to maintain the confidentiality of the information, reports, documents, and writings to the extent permitted by law. Upon receipt by the city of requests for the provider's confidential information, reports, documents, or writings, the city shall notify the provider of the request in writing by facsimile transmission. The city shall furnish the provider with copies of all requests for attorney general opinions pertaining to the provider's confidential information, reports, documents or writings. The city shall request an attorney general's opinion before disclosing any confidential information, reports, documents or writings, and shall furnish the provider with copies of attorney general opinion requests as soon as practicable that it may pertain to the provider's confidential information, reports, documents or writings.

(d) No other fees. The payments due hereunder shall be in lieu of any construction, building or other permit, approval, inspection, or other similar fees or charges, including, but not limited to, all general business permit fees customarily assessed by the city for the use of the public rights-of-way against persons operating businesses similar to that of a provider. Further, such access line fee shall constitute full compensation to the city for all provider's facilities located within the public rights-of-way, including interoffice-transport and other transmission media that do not terminate at an end-user customer's network interface device, even though those types of lines are not used in the calculation of the public rights-of-way fee. The compensation paid herein is not in lieu of any generally applicable ad valorem taxes, sales taxes or other generally applicable taxes, fees, development impact fees or charges, or other statutory charges or expenses recoverable under the Texas Public Utility Regulatory Act, or successor statutes.

(e) Uncollectibles. Any other provision of this agreement notwithstanding, [the] provider shall not be obligated to pay the city for any access lines or private line termination points the revenues for which remain uncollectible.

(f) Payments by or use of the network by other telecommunications carriers and providers.

(1) Direct payment-facilities provided to other telecommunications service providers: To the extent allowed by applicable state and federal law, any telecommunications service providers who purchase unbundled network elements or other facilities or services for the purpose of rebundling those facilities and/or services to create telecommunications service for sale to persons within the city ("rebundler"), must pay to the city the access line fee that is calculated as of month-end by applying the appropriate access line fee, as specified in section 80-11 above, to each access line created by rebundling telecommunications service or facilities. Direct payment further ensures that the access line fee imposed herein can be applied on a non-discriminatory basis to all telecommunications service providers that sell telecommunications service within the city. Other provisions of this chapter notwithstanding, the

provider shall not include in its monthly count of access lines any facilities or services provided to other telecommunications service providers for rebundling into telecommunications service, if the telecommunications service provider who is rebundling those facilities for resale has provided a signed statement to the provider that the telecommunications service provider is paying the access line fees applicable to those rebundled services directly to the city. If provider provides a copy of the signed statement to the city from the rebundler which is acceptable to the city, then provider is absolved of all responsibility for the access line fees payable on the services, unbundled network facilities, and other facilities rebundled for the creation of telecommunications service for sale within the city by each such rebundler.

(2) Indirect payments - public rights-of-way fee application to use of network by others: With respect to any person leasing, reselling, or otherwise using a provider's access lines, if a provider believes it does not have sufficient information to determine the appropriate rate to apply, then the higher access line fee may be applied until such time as the person using the access lines provides to the provider sufficient written information to determine the correct access line fee. If a person provides sufficient written information for the application of the access line fee, [the] provider may, at its discretion and not at the city's request, bill the person on the basis of the information provided. [The] provider shall provide to the city any information regarding the locations to which it is providing service or facilities for use by another person for the provision of telecommunications service to end-user customers, so long as city first obtains written permission of such other person for [the] provider to provide the information to the city. Any other provision of this chapter notwithstanding, however, a provider shall not be liable for underpayment of access line fees resulting from the provider's reliance upon the written information provided by any person who uses provider's services or facilities for the provision of telecommunications service to end-user customers.

(Ord. No. 1366, § 1(Exh. A), 6-22-99; Ord. No. 1439, § 1, 6-27-00; Ord. No. 1486, § 1, 6-26-01; Ord. No. 1528, § 1, 4-9-02; Ord. No. 1583, § 1, 3-25-03)

Sec. 80-12 City payment due dates

(a) Access line fee. A provider shall remit the access line fee on a quarterly basis together with the certified statement required in section 80-11(a)(1)a. Payment shall be made on or before the 45th day following the close of each calendar quarter for which the payment is calculated and shall be paid by wire transfer to an account designated by the city manager.

(b) Minimum fee payment. This fee per section 80-11(b), if applicable, shall be due on January 31 of every year of the consent agreement.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-13 Audits

(a) On 30 days' notice to a provider the city may audit a provider for a period of time to the

fullest extent allowed by law. The provider shall furnish information to demonstrate its compliance with the municipal consent and/or other provisions of this chapter.

(b) A provider shall keep complete and accurate books of accounts and records of business and operations that cumulatively reflect the monthly count of all access lines for a period of seven years. The city manager may require the keeping of additional records or accounts that are reasonably necessary for purposes of identifying, accounting for, and reporting the number of access lines used to deliver telecommunication services or for calculation of the payments due hereunder. The city may examine the provider's books and records referred to above, expressly excluding any records, documents or other writings the disclosure of which is prohibited by state or federal law, including the Electronic Communications Privacy Act, 18 U.S.C. § 2701 et seq., to the extent such records reasonably relate to providing information to verify compliance with this chapter and the municipal consent.

(c) A provider shall make available to the city or the city's designated agent (hereinafter "agent"), for the city or it's agent to examine, audit, review and copy, in the city, on the city manager's written request, its books and records referred to above, including papers, books, accounts, documents, maps, plans and other provider records that pertain to municipal consent conditions and requirements obtained under this chapter. A provider shall fully cooperate in making records available and otherwise assist the city examiner. The city examiner shall not inspect or copy or otherwise demand production of customer specific information or any records, documents or other writings the disclosure of which is prohibited by state or federal law, including the Electronic Communications Privacy Act, 18 U.S.C. § 2701 et seq.

(d) The city manager may, at any time, make inquiries pertaining to [the] providers' performance of the terms and conditions of a municipal consent conveyed under this chapter. Providers shall respond to such inquiries on a timely basis.

(e) Upon written request by the city manager, to the extent the documents are reasonably identified, providers shall furnish to the city within 30 business days from the date of the written request copies of all public petitions, applications, written communications and reports submitted by providers, to the FCC and/or to the PUC or their successor agencies, relating to any matters affecting the physical use of city public rights-of-way.

(f) The provisions of this section shall be continuing and shall survive the termination of a municipal consent granted under this chapter and shall extend beyond the term of the municipal consent granted to the provider and the city shall have all the rights described in this section for so long as provider is providing any telecommunications service within the city.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-14 Transfer

(a) No municipal consent nor any rights or privileges that a provider has under a municipal consent, or the facilities held by a provider for use under such municipal consent which are in the public rights-of-way, shall be sold, resold, assigned, transferred or conveyed by the provider, either separately or collectively, to any other person, without the prior written approval of the city by ordinance or resolution. The city's approval shall be based upon the transferee providing adequate information to the city that it has the ability to perform and comply with the

obligations and requirements of the municipal consent. Such approval shall not be unreasonably withheld. Should a provider sell, assign, transfer, convey or otherwise dispose of any of its rights or interests under its municipal consent, including such provider's telecommunications network, or attempt to do so, without the city's prior consent, the city may revoke the provider's municipal consent for default, in which event all rights and interest of the provider under the municipal consent shall cease.

(b) Any transfer in violation of this section shall be null and void and unenforceable. Any change of control of a provider shall constitute a transfer under this section. However, such a change in control shall not void the municipal consent as to the transferee, unless and until the city has given notice that such a change in control necessitates compliance with section 80-14. If the provider does not initiate compliance with section 80-14 by a request for municipal consent within 30 days after the above notice has been given by the city, the municipal consent shall be null and unenforceable as to the transferee.

(c) There shall be a rebuttable presumption of a change of control of a provider upon a change of 15 percent or greater in the ownership of such provider. Such a change in control shall be deemed a transfer, which requires consent of the city.

(d) A mortgage or other pledge of assets to a bank or lending institution in a bona fide lending transaction shall not be considered an assignment or transfer.

(e) Every municipal consent granted under this section 80-14 shall specify that any transfer or other disposition of rights which has the effect of circumventing payment of required access line fees or minimum fees and/or evasion of payment of such fees by failure to accurately count or report the number of access lines by a provider is prohibited.

(f) Notwithstanding anything else in this section 80-14, if the city has not approved or denied a request to transfer under this section within 120 days of written notice of such request from the provider to the city, it shall be deemed approved. Such time frame may be extended by mutual agreement of the parties.

(g) Notwithstanding any other provision in this section 80-14, a provider may transfer, without city approval, the facilities in the public rights-of-way under a municipal consent to another provider who has a municipal consent under this chapter. The provider transferring the facilities remains subject to all applicable obligations and provisions of the municipal consent unless the provider to which the facilities are transferred is also subject to the same, as applicable, obligations and provisions. The provider transferring the facilities must give written notice of the transfer to the city manager.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-15 Notices to city

(a) A provider shall notify the city manager as is provided in the consent agreement.

(b) A provider shall give written notice to the city not later than 15 days before a transfer or change in operations that may affect the applicability of sections 80-18 [Conditions of Public Rights-of-Way Occupancy], 80-19 [Bond Requirements], 80-20 [Insurance Requirements],

80-21 [Indemnity], and 80-22 [Renewal of Municipal Consent], to the provider.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-16 Circumvention of fee prohibited

A person may not circumvent payment of access line fees or evade payment of such fees by bartering, transfer of rights, or by any other means that result in undercounting a provider's number of lines. Capacity or services may be bartered if the imputed lines are reported in accordance with section 80-11.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-17 Construction obligations

(a) A provider is subject to the reasonable regulation of the city to manage its public rights-of-way pursuant to the city's rights as a custodian of public property under state and federal laws. A provider is subject to city ordinances and requirements and federal and state laws and regulations in connection with the construction, expansion, reconstruction, maintenance or repair of facilities in the public rights-of-way.

(b) At the city's request, a provider shall furnish the city accurate and complete information relating to the construction, reconstruction, removal, maintenance, operation and repair of facilities performed by the provider in the public rights-of-way.

(c) The construction, expansion, reconstruction, excavation, use, maintenance and operation of a provider's facilities within the public rights-of-way are subject to applicable city requirements.

(1) A provider may be required to place certain facilities within the public rights-of-way underground according to applicable city requirements absent a compelling demonstration by the provider that, in any specific instance, this requirement is not reasonable or feasible nor is it equally applicable to other similar users of the public rights-of-way.

(2) A provider shall perform operations, excavations and other construction in the public rights-of-way in accordance with all applicable city requirements, including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the public rights-of-way. The city shall waive the requirement of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the city by the provider. All excavations and other construction in the public rights-of-way shall be conducted so as to minimize interference with the use of public and private property. A provider shall follow all reasonable construction directions given by the city in order to minimize any such interference.

(3) A provider must obtain a permit, as reasonably required by applicable city codes, prior to any excavation, construction, installation, expansion, repair, removal, relocation or maintenance of the provider's facilities. Once a permit is issued, [the]

provider shall give to the city a minimum of 48 hours notice (which could be at the time of the issuance of the permit) prior to undertaking any of the above listed activities on its network in, on or under the public rights-of-way. The failure of the provider to request and obtain a permit from the city prior to performing any of the above listed activities in, on or over any public right-of-way, except in an emergency as provided for in subsection (10) below, will subject the provider to a stop-work order from the city and enforcement action pursuant to the city's Code of Ordinances. If the provider fails to act upon any permit within 90 calendar days of issuance, the permit shall become invalid, and the provider will be required to obtain another permit.

(4) When a provider completes construction, expansion, reconstruction, removal, excavation or other work, the provider shall promptly restore the rights-of-way in accordance with applicable city requirements. A provider shall replace and properly relay and repair the surface, base, irrigation system and landscape treatment of any public rights-of-way that may be excavated or damaged by reason of the erection, construction, maintenance, or repair of the provider's facilities within thirty (30) calendar days after completion of the work in accordance with existing standards of the city in effect at the time of the work.

(5) Upon failure of a provider to perform any such repair or replacement work, and five days after written notice has been given by the city to the provider, the city may repair such portion of the public rights-of-way as may have been disturbed by the provider, its contractors or agents. Upon receipt of an invoice from the city, the provider will reimburse the city for the costs so incurred within 30 calendar days from the date of the city invoice.

(6) Should the city reasonably determine, within two years from the date of the completion of the repair work, that the surface, base, irrigation system or landscape treatment requires additional restoration work to meet existing standards of the city, a provider shall perform such additional restoration work to the satisfaction of the city, subject to all city remedies as provided herein.

(7) Notwithstanding the foregoing, if the city determines that the failure of a provider to properly repair or restore the public rights-of-way constitutes a safety hazard to the public, the city may undertake emergency repairs and restoration efforts. A provider shall promptly reimburse the city for all costs incurred by the city within 30 calendar days from the date of the city invoice.

(8) A provider shall furnish the city with construction plans and maps showing the location and proposed routing of new construction or reconstruction at least 15 days [subject to subsection (d)], before beginning construction or reconstruction that involves an alteration to the surface or subsurface of the public rights-of-way. A provider may not begin construction until the location of new facilities and proposed routing of the new construction or reconstruction and all required plans and drawings have been approved in writing by the city, which approval will not be unreasonably withheld, taking due consideration of the surrounding area and alternative locations for the facilities and routing.

(9) If the city manager declares an emergency with regard to the health and safety of the citizens and requests by written notice the removal or abatement of facilities, a provider shall remove or abate the provider's facilities by the deadline provided in the city manager's request. The provider and the city shall cooperate to the extent possible to assure continuity of service. If the provider, after notice, fails or refuses to act, the city may remove or abate the facility, at the sole cost and expense of the provider, without paying compensation to the provider and without the city incurring liability for damages.

(10) Except in the case of customer service interruptions and imminent harm to property or person ("emergency conditions"), a provider may not excavate the pavement of a street or public rights-of-way without first complying with city requirements. The city manager or designee shall be notified immediately regarding work performed under such emergency conditions, and the provider shall comply with the requirements of city standards for the restoration of the public rights-of-way.

(11) Within 60 days of completion of each new permitted section of a provider's facilities, the provider shall supply the city with a complete set of "as built" drawings for the segment in a format used in the ordinary course of the provider's business and as reasonably prescribed by the city, and as allowed by law.

(12) The city may require reasonable bonding requirements of a provider, as are required of other entities that place facilities in the public rights-of-way.

(d) In determining whether any requirement under this section is unreasonable or unfeasible, the city manager or his/her designee shall consider, among other things, whether the requirement would subject the provider or providers to an unreasonable increase in risk of service interruption, or to an unreasonable increase in liability for accidents, or to an unreasonable delay in construction or in availability of its services, or to any other unreasonable technical or economic burden.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-18 Conditions of public rights-of-way occupancy

(a) In the exercise of governmental functions, the city has first priority over all other uses of the public rights-of-way. The city reserves the right to lay sewer, gas, water, and other pipe lines or cables and conduits, and to do underground and overhead work, and attachments, restructuring or changes in aerial facilities in, across, along, over or under a public street, alley or public rights-of-way occupied by a provider, and to change the curb, sidewalks or the grade of streets.

(b) The city shall assign the location in or over the public rights-of-way among competing users of the public rights-of-way with due consideration to the public health and safety considerations of each user type, and to the extent there is limited space available for additional users, may limit new users, as allowed under state or federal law.

(c) If, during the term of a municipal consent, the city authorizes abutting landowners to occupy space under the surface of any public street, alley, or public rights-of-way, the grant to

an abutting landowner shall be subject to the rights of the provider. If the city closes or abandons a public right-of-way that contains a portion of a provider's facilities, the city shall close or abandon such public right-of-way subject to the rights conveyed in the municipal consent.

(d) If the city gives written notice, a provider shall, at its own expense, temporarily or permanently, remove, relocate, change or alter the position of provider's facilities that are in the public rights-of-way within 120 days, except in circumstances that require additional time as reasonably determined by the city based upon information provided by the provider. For projects expected to take longer than 120 days to remove, change or relocate, the city will confer with provider before determining the alterations to be required and the timing thereof. The city shall give notice whenever the city has determined that removal, relocation, change or alteration is reasonably necessary for the construction, operation, repair, maintenance or installation of a city or other governmental public improvement in the public rights-of-way. This section shall not be construed to prevent a provider's recovery of the cost of relocation or removal from private third parties who initiate the request for relocation or removal, nor shall it be required if improvements are solely for beautification purposes without prior joint deliberation and agreement with provider.

If the provider fails to relocate facilities in the time allowed by the city in this section, the provider may be subject to liability to the city for such delay and as set forth in the city codes or ordinances, now or hereafter enacted.

Notwithstanding anything in this subsection (d), the city manager and a provider may agree in writing to different time frames than those provided above if circumstances reasonably warrant such a change.

(e) During the term of its municipal consent, a provider may trim trees in or over the rights-of-way for the safe and reliable operation, use and maintenance of its network. All tree trimming shall be performed in accordance with standards promulgated by the city. Should the provider, its contractor or agent, fail to remove such trimmings within 24 hours, the city may remove the trimmings or have them removed, and upon receipt of a bill from the city, the provider shall promptly reimburse the city for all costs incurred within 30 working days.

(f) Providers shall temporarily remove, raise or lower its aerial facilities to permit the moving of houses or other bulky structures, if the city gives written notice of no less than 48 hours. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. [The] provider may require prepayment or prior posting of a bond from the party requesting temporary move.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-19 Bond requirements

(a) [The] provider shall obtain and maintain, at its sole cost and expense, and file with the city secretary, a corporate surety bond in the amount of $100,000.00 both to guarantee timely construction and faithful adherence to all requirements of the chapter. The bond amount may be reduced to $50,000.00 after a period of two years provided [the] provider has complied with all terms and conditions herein. The bond must be presented to the city at the time of filing the

acceptance of a municipal consent.

(b) The bond shall contain the following endorsement: “It is hereby understood and agreed that this bond may not be canceled by the surety nor any intention not to renew be exercised by the surety until 30 days after receipt by the city of such written notice of such intent.”

(c) The bond shall provide, but not be limited to, the following condition: there shall be recoverable by the city, jointly and severally from the principal and the surety, any and all damages, loss or costs suffered by the city resulting from the failure of the provider to satisfactorily construct facilities and adherence to all the requirements of this chapter.

(d) The rights reserved to the city with respect to the bond are in addition to all other rights of the city, whether reserved by this chapter, or authorized by law; and no action, proceeding or exercise of a right with respect to such bond shall affect any other rights the city may have.

(e) The city manager or his designee may waive or reduce the above required bonding requirements, taking into consideration both that the provider has furnished the city with reasonable documentation to evidence adequate financial resources substantially greater than the bonding requirements, and has demonstrated in prior right-of-way construction activity, prompt resolution of any claims and substantial compliance with all required applicable building codes and ordinances.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-20 Insurance requirements

(a) A provider shall obtain and maintain insurance in the following amounts with an insurance company licensed to do business in the State of Texas acceptable to the city throughout the term of a municipal consent conveyed under this chapter:

Type of Insurance	**Limit (in $ millions)**	
General liability (including contractual liability) written on an occurrence basis	General aggregate	2
	Prod./comp. op. agg.	2
	Personal & adv. injury	1
		1
	Each occurrence	1
Automobile liability, including any auto, hired autos, and non-owned autos	Combined single limit	1
Excess liability, umbrella form	Each occurrence	2
	Aggregate	2
Worker’s compensation and employer’s liability	Each accident	.5
	Disease-Policy limit	.5
	Disease-Each employee	.5

A provider shall furnish the city with proof of insurance at the time of filing the acceptance of a municipal consent. The city reserves the right to review the insurance requirements during the effective period of a municipal consent, and to reasonably adjust insurance coverage and limits when the city manager determines that changes in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section, the city will accept certificates of self-insurance issued by the State of Texas or letters written by the provider in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, for the city to accept such letters the provider must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the city, based on financial information requested by and furnished to the city.

(b) The provider shall furnish, at no cost to the city, copies of certificates of insurance evidencing the coverage required by this section to the city. The city may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by a law or regulation binding the city, the provider, or the underwriter. If the city requests a deletion, revision or modification, a provider shall exercise reasonable efforts to pay for and to accomplish the change.

(c) An insurance certificate shall contain the following required provisions:

(1) Name the city and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage;

(2) Provide for 30 days notice to the city for cancellation, non-renewal, or material change;

(3) Provide that notice of claims shall be provided to the city manager by certified mail; and

(4) Provide that the terms of the municipal consent which impose obligations on the provider concerning liability, duty, and standard of care, including the indemnity section, are included in the policy and that the risks are insured within the policy terms and conditions.

(d) [The] provider shall file and maintain proof of insurance with the city manager during the term of a municipal consent or an extension or renewal. An insurance certificate obtained in compliance with this section is subject to city approval. The city may require the certificate to be changed to reflect changing liability limits. A provider shall immediately advise the city attorney of actual or potential litigation that may develop may affect an existing carrier’s obligation to defend and indemnify.

(e) An insurer has no right of recovery against the city. The required insurance policies shall protect the provider and the city. The insurance shall be primary coverage for losses covered by the policies.

(f) The policy clause “Other Insurance” shall not apply to the city if the city is an insured under the policy.

(g) The provider shall pay premiums and assessments. A company, which issues an insurance policy, has no recourse against the city for payment of a premium or assessment. Insurance policies obtained by a provider must provide that the issuing company waives all right of recovery by way of subrogation against the city in connection with damage covered by the policy.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-21 Indemnity

(a) Each municipal consent granted under this telecommunications chapter shall contain provisions whereby the provider agrees to promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses or expenses (i) for the repair, replacement, or restoration of city's property, equipment, materials, structures and facilities which are damaged, destroyed or found to be defective solely as a result of the provider's acts or omissions, (ii) from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any person (including, but not limited to the provider, its agents, officers, employees and subcontractors, city's agents, officers and employees, and third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to the agents, officers and employees of the provider, provider's subcontractors and city, and third parties), arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the provider, its agents, employees, and/or subcontractors, in the performance of activities pursuant to such municipal consent.

(b) No municipal consent indemnity provision shall apply to any liability resulting from the negligence of the city, its officers, employees, agents, contractors, or subcontractors.

(c) The provisions of the required indemnity provision set forth in an individual municipal consent shall provide that:

(1) It is solely for the benefit of the parties to the municipal consent and is not intended to create or grant any rights, contractual or otherwise, to any other person or entity;

(2) To the extent permitted by law, any payments made to, or on behalf of the city under the provisions of this section are subject to the rights granted to providers under Sections 54.204-54.206 of the Texas Utilities Code; and

(3) Subject to the continued applicability of the provisions of Sections 54.204-54.206 of the Texas Utilities Code, as set forth in (2) above, the provisions of the indemnity shall survive the expiration of the municipal consent.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-22 Renewal of municipal consent

A provider shall request a renewal of a municipal consent by making written application to the city manager at least 90 days before the expiration of the consent.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-23 Annexation; disannexation

Within 30 days following the date of the passage of any action affecting the annexation of any property to or the disannexation of any property from the city's corporate boundaries, the city agrees to furnish provider written notice of the action and an accurate map of the city's corporate boundaries showing, if available, street names and number details. For the purpose of compensating the city under this chapter, a provider shall start including or excluding access lines within the affected area in the provider's count of access lines on the effective date designated by the Comptroller of Public Accounts - Texas for the imposition of state local sales and use taxes; but in no case less than 30 days from the date the provider is notified by the city of the annexation or disannexation.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-24 Severability

The provisions of this chapter are severable. However, in the event this chapter or any tariff that authorizes the provider to recover the fee(s) provided for this chapter or any procedure provided in this chapter or any compensation due the city under this chapter becomes unlawful, or is declared or determined by a judicial, administrative or legislative authority exercising its jurisdiction to be excessive, unrecoverable, unenforceable, void, illegal or otherwise inapplicable, in whole or in part, or is exchanged for another means of compensation under higher authority, the provider and city shall meet and negotiate a new agreement that is in compliance with the authority's decision or enactment. Unless explicitly prohibited, the new agreement shall provide the city with a level of compensation comparable to that set forth in this chapter as long as the agreed-to compensation is recoverable by the provider in a manner permitted by law for the unexpired portion of the term of this chapter.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-25 Governing law

This chapter shall be construed in accordance with the City Code(s) in effect on the date of passage of this chapter to the extent that such Code(s) are not in conflict with or in violation of the Constitution and laws of the United States or the State of Texas, subject to the city's ongoing authority to adopt reasonable regulations to manage its public rights-of-way, pursuant to sections 80-17 and 80-18 or as otherwise provided by law. Municipal consents entered into pursuant to this chapter are performable in Tarrant County, Texas.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-26 Termination

(a) The city shall reserve the right to terminate any municipal consent and any rights or privileges conveyed under this chapter in the event of a material breach of the terms and conditions of the municipal consent or of this chapter, subject to a 30-day written notice and the

opportunity to cure the breach during that 30-day period.

(b) Material breaches of a municipal consent specifically include, but are not limited to, continuing violations of sections 80-11 [Compensation to City], 80-17 [Construction Obligations] and/or 80-18 [Conditions of Public Rights-of-Way Occupancy], and the furnishing of service of any kind that requires municipal authorization but that is not authorized by section 80-3(a).

(c) A material breach shall not be deemed to have occurred if the violation occurs without the fault of a provider or occurs as a result of circumstances beyond its control. Providers shall not be excused from performance of any of their obligations under this chapter by economic hardship, nor misfeasance or malfeasance of their city managers, officers or employees.

(d) A termination shall be declared only by a written decision by motion, resolution or ordinance of the city council after an appropriate public proceeding before the city council, which shall accord the provider due process and full opportunity to be heard and to respond to any notice of grounds to terminate. All notice requirements shall be met by giving the provider at least 15 days prior written notice of any public hearing concerning the proposed termination of its consent. Such notice shall state the grounds for termination alleged by city.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

Sec. 80-27 Unauthorized use of public rights-of-way

(a) Any person seeking to place facilities on, in or over the public rights-of-way, city property, city structures, or utility infrastructure shall first file an application for a municipal consent with the city and shall abide by the terms and provisions of this chapter pertaining to use of the public rights-of-way and pay the fees specified herein.

(b) The city may institute all appropriate legal action to prohibit any person from knowingly using the public rights-of-way unless the city has consented to such use in accordance with the terms of this chapter and with a municipal consent.

(c) Any person using the public rights-of-way without a municipal consent shall be liable for the same fees and charges as provided for herein.

(Ord. No. 1366, § 1(Exh. A), 6-22-99)

CHAPTER 81
RESERVED

CHAPTER 82
TRAFFIC AND MOTOR VEHICLES*(78)

ARTICLE I. IN GENERAL

Sec. 82-1 Definitions

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

Authorized emergency vehicle means vehicles of the fire department (fire patrol), police vehicles, public and private ambulances for which permits have been issued by the state board of health, emergency vehicles of municipal departments or public service corporations as are designated or authorized by the city council, private vehicles operated by volunteer firemen or certified emergency medical services employees or volunteers while answering a fire alarm or responding to a medical emergency, industrial ambulances and other industrial emergency response vehicles when operating in an emergency situation provided the vehicle is also operated in adherence with criteria established by the state industrial fire training board of the State Firemen's and Fire Marshals' Association of Texas as the criteria are in effect on September 1, 1989, and vehicles operated by blood banks or tissue banks, accredited or approved under the laws of this state or the United States, while making emergency deliveries of blood, drugs or medicines, or organs.

Bicycle means every device propelled by human power upon which any person may ride having two tandem wheels either of which is over 14 inches in diameter, and including any device generally recognized as a bicycle though equipped with two front or two rear wheels.

Buses, boats, recreational vehicles and/or trailers see section 82-91 for definitions.

Crosswalk means:

(1) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs, or in the absence of curbs from the edges of the traversable roadway.

(2) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Driver means every person who drives or is in actual physical control of a vehicle.

Freeway means any limited access expressway or highway within the city, and shall include the entrances and exits leading to and from the through traffic lanes of such expressways and highways.

Intersection means:

(1) The area embraced within the prolongation or connection of the lateral curblines, or if none, then the lateral boundary lines of the roadways of two highways which join one another at or approximately at right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict.

(2) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be

regarded as a separate intersection. If such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

Light truck means a truck, including a pickup truck, panel delivery truck, or carry- all truck, that has a manufacturer's rated carrying capacity of 3,000 pounds (11/2 tons) or less.

Loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers or materials.

Motor vehicle means every vehicle which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Motorcycle means every motor vehicle having a saddle for the use of the rider and designated to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Official time standard means that whenever certain hours are named in this chapter, they shall mean standard time or daylight saving time as may be in current use in the city.

Official traffic-control devices means all signs, signals, markings and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

Park, when prohibited, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading.

Passenger loading zone means a space adjacent to a curb reserved for the exclusive use of vehicles during the loading or unloading of passengers.

Pedestrian means any person afoot.

Police officer means every officer of the municipal police department or other officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private road or driveway means every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Right-of-way means the privilege of the immediate use of the roadway.

Roadway means that portion of a street or highway improved, designed or ordinarily used for vehicular travel. If a highway includes two or more separate roadways, the term "roadway" shall refer to any such roadway separately but not to all such roadways collectively.

Safety zone means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Sidewalk means that portion of a street between the curblines or the lateral lines of a roadway,

and the adjacent property lines intended for the use of pedestrians.

Stop, when required, means complete cessation of movement.

Stop, stopping or standing, when prohibited, means any stopping or standing of a vehicle whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control signal or sign.

Street or highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Traffic means pedestrian, ridden or herded animals, vehicles and other conveyances, either singly or together, while using any street for purpose of travel.

Traffic-control sign or device means all signs, markings and devices not inconsistent with this chapter placed or erected by authority of the city council for the purpose of regulating, warning or guiding traffic.

Traffic-control signal means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and to proceed.

Truck means a motor vehicle with a rated capacity of more than 3,000 pounds (11/2 tons) designed, used, or maintained primarily to transport property.

Truck tractor means a motor vehicle designed and used primarily to draw another vehicle but not constructed to carry a load other than a part of the weight of the other vehicle and its load.

Vehicle means every device in, upon or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(Code 1974, § 14-1; Ord. No. 1684, § 1, 4-12-05)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 82-2 Use of coaster, roller skates and similar devices restricted

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 of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply upon any street while set aside as a play street as authorized by the city.

(Code 1974, § 14-13)

Cross reference–Parks, recreational and cultural facilities, ch. 54; streets and sidewalks, ch. 70.

Sec. 82-3 Freeway use restricted

No vehicle except of the automotive type shall be driven upon or operated upon any freeway in the city. The use of any freeway by pedestrians, bicyclists or equestrians is hereby prohibited. This prohibition shall apply to the shoulder and median strips of freeways, as well as to the pavement surfaces thereof.

(Code 1974, § 14-15)

Sec. 82-4 Glass, etc., on highways–Throwing or depositing

No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.

(Code 1974, § 14-8)

Cross reference–Littering, § 46-51 et seq.; streets and sidewalks, ch. 70.

Sec. 82-5 Same–Removing

(a) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove such material or cause it to be removed.

(b) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

(Code 1974, § 14-9)

Sec. 82-6 Displaying advertising

It shall be unlawful for anyone to operate any vehicle on any street within the corporate limits of the city for the primary purpose of displaying advertising.

(Code 1974, § 14-99)

Cross reference–Businesses, ch. 18; nuisances, ch. 46.

Sec. 82-7 Additional or special regulations

The city council may by resolution make and enforce regulations necessary to make effective the provisions of this chapter and to make and enforce temporary regulations to cover emergency or special conditions.

(Code 1974, § 14-2)

Sec. 82-8 Obedience by public employees

The provisions of this chapter applicable to the drivers of vehicles upon the highways and streets shall apply to the drivers of all vehicles owned or operated by the United States, this

state or any county, city, town, district or any other political subdivision of this state, subject to such specific exceptions as are set forth in this chapter and Vernon's Ann. Civ. St. art. 6701d with reference to authorized emergency vehicles.

(Code 1974, § 14-6(a))

Secs. 82-9–82-30 Reserved

ARTICLE II. ADMINISTRATION*(79)

Sec. 82-31 Authority of and obedience to police and to regulations–Police to enforce chapter; directing traffic

It shall be the duty of the police department to enforce the provisions of this chapter. Officers of the police department are authorized to direct all traffic, either in person or by means of visible and/or audible signals in conformance with the provisions of this chapter, provided in the event of a fire or other emergency or to expedite traffic or safeguard pedestrians, officers of the police department or fire department may direct traffic, as conditions may require, notwithstanding the provisions of this chapter.

(Code 1974, § 14-3)

Cross reference–Law enforcement, § 2-156 et seq.

Sec. 82-32 Same–Failure to comply with orders or directions

No person shall wilfully fail or refuse to comply with any lawful order or direction of any police officer invested by law with authority to direct, control or regulate traffic.

(Code 1974, § 14-4)

Sec. 82-33 Same–Fleeing from or evading police

No person operating a motor vehicle on the streets, alleys, public ways, thoroughfares, private roads open to the public, park drives or other places where vehicles travel within the city shall flee from or seek to evade a police officer after having received an indication either by the blinking of blue or red lights, the whistling of a siren or the motioning by the officer to the motorist to halt or to move to the side of the street, or disobeying any other plain and unmistakable indication that the officer is attempting to stop the motorist, for the purpose of preventing the receipt by the motorist of a traffic citation or ticket, or in an attempt to evade arrest.

(Code 1974, § 14-5)

Sec. 82-34 Parade permit

No funeral, procession or parade containing 200 or more persons or 50 or more vehicles, except the military forces of the United States, the military forces of this state, and forces of the

police and fire department shall occupy, march or proceed along any street except in accordance with a permit issued by the chief of police and such regulations as are set forth in this chapter which may apply.

(Code 1974, § 14-11)

Cross reference–Businesses, ch. 18; nuisances, ch. 46; parks, recreational and cultural facilities, ch. 54; streets and sidewalks, ch. 70; unified development code, ch. 84.

Sec. 82-35 Funeral and other processions of vehicles–Driving through

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 article. This section shall not apply at intersections where traffic is controlled by traffic-control signals or police officers.

(Code 1974, § 14-94)

Cross reference–Businesses, ch. 18; streets and sidewalks, ch. 70.

Sec. 82-36 Same–Drivers in

Each driver in a funeral or other procession shall drive as near to the right-hand edge of the roadway as practical and shall follow the vehicle ahead as close as is practical and safe.

(Code 1974, § 14-95)

Sec. 82-37 Same–Funeral processions to be identified

A funeral composed of a procession of vehicles shall be identified as such by the display upon the outside of each vehicle of a pennant or other identifying insignia or by such other method as may be determined and designated by the traffic division.

(Code 1974, § 14-96)

Sec. 82-38 Enforcement–Payment of fine at traffic violations bureau

(a) Any person who has received any notice to appear in answer to a traffic charge under this chapter may, within the time specified in the notice, appear at the traffic violations bureau and answer the charge set forth in such notice by paying a prescribed fine, and, in writing, pleading guilty to the charge, waiving a hearing in court and giving power of attorney to the person in charge of the bureau to make such a plea and pay such fine in court.

(b) Any person who has been guilty of three or more traffic violations, except as otherwise provided in this chapter, within the preceding 12 months shall not be permitted to pay a fine at the traffic violations bureau and must make statutory bail for appearance in court.

(Code 1974, § 14-16)

Sec. 82-39 Same–Disposition of fines and forfeitures

All fines or forfeitures collected upon conviction or upon the forfeiture of bail of any person charged with a violation of any of the provisions of this chapter shall be paid to the city secretary and deposited in the general fund.

(Code 1974, § 14-17)

Sec. 82-40 Same–Giving wrong name or address

It shall be unlawful for any person when giving a written promise to appear, or given a written notice by any police officer to appear before the municipal court to answer for an offense against any law of this state, or any ordinance of the city, to give an assumed or fictitious name or a false place of residence or address, or any other than the true name and the true place of his residence or address, upon the request of such officer.

(Code 1974, § 14-19)

Sec. 82-41 Same–Removing and impounding vehicle

Any vehicle parked in violation of the traffic ordinances of the city or chapter 84 of this Code at a place where parking is prohibited or parking time is limited may be removed and impounded by the police department. Towing and impound fees assessed against the vehicle shall be collected from the owner or driver of the vehicle by the wrecker service used for towing before the release of such vehicle. The payment of this towing and impounding fee shall not excuse such owner or driver of the vehicle from the charge of violating such traffic ordinance prohibiting or limiting such parking.

(Code 1974, § 14-20; Ord. No. 1684, § 2, 4-12-05)

Secs. 82-42–82-60 Reserved

ARTICLE III. OPERATION OF VEHICLE

Sec. 82-61 Speed limits–Generally

The state traffic laws regulating the speed of vehicles shall be applicable upon all streets within the city, except as this chapter, as authorized by state law, hereby declares and determines upon the basis of an engineering and traffic investigation that certain speed regulations shall be applicable upon specified streets or in certain areas, in which event it shall be prima facie unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when signs are in place giving notice thereof.

(1) No person shall drive as defined by state law a motor vehicle, motorcycle, bicycle, motor-driven cycle, motor-assisted cycle or any other vehicle of any kind upon a public street, alley, highway or parkway within the corporate limits of the city at a speed greater than is reasonable and prudent under the circumstances then existing. Except where a special hazard exists that requires lower speeds for

compliance with subsection (2) of this section, the limits specified in this section or section 82-61 and established as authorized by law shall be the lawful speed limits, but any speed in excess of the limits so specified and established as authorized by law shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. The speed limit shall be 30 miles per hour in any urban district. "Urban district" means the territory contiguous to and including any highway or street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than 100 feet for a distance of one-quarter of a mile or more on either side.

(2) No person shall drive a vehicle upon a public street or a public alley within the corporate limits of the city at a speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing. In every event speed shall be so controlled as may be necessary to avoid colliding with any person, vehicle or other conveyance on or entering the highway in compliance with legal requirements and the duty of all persons to use due care.

(3) No person shall drive, as defined by state law, a motor vehicle, motorcycle, bicycle, motor-driven cycle, motor-assisted cycle or any other vehicle of any kind upon an alley within the corporate limits of the city at a speed greater than is reasonable and prudent under the circumstances then existing. Any speed in or upon any alley in the city in excess of the limit as established by this section shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful. The speed limit in or upon any alley shall be 20 miles per hour.

(Code 1974, § 14-65; Ord. No. 1841, § I, 2-10-09)

Cross reference–Streets and sidewalks, ch. 70.

Sec. 82-62 Same–On certain streets and portions of streets

Upon the basis of an engineering and traffic investigation made as authorized by the provisions of Vernon's Ann. Civ. St. art. 6701d, §§ 167 and 169 regulating traffic on highways, the following prima facie speed limits indicated in this section for vehicles are hereby determined and declared to be reasonable and safe; such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

Street	Block number/ (portion of street)	Extent	Max. speed (mph)
Airport Frwy., E. (State Highway 183)	0–900E (Main lanes)	Euless Main St., N. east to Bear Creek Pkwy. (Ft. Worth city limits)	60 day 60 night
	200–900E (W/B Frtg. Rd.)	200 feet east of Bear Creek Pkwy. (Ft. Worth city limits) west to intersection of Fuller Dr.	40
	0–400E (W/B off ramp)	Ector Dr. and Main St., N. off ramp	40
Airport Frwy., W.	0–1000W	Euless Main St., N. west to Industrial Blvd.,	60 day

(State Highway 183)	(main lanes)	N. (Bedford city limits)	60 night
	0–1000W (W/B Frtg. Rd. and on/off ramps)	Euless Main St., N. west to Industrial Blvd., N. (Bedford city limits)	40
	0–2300W (E/B Frtg. Rd. and on/off ramps)	750 feet west of Westpark Way (Bedford city limits) east to Euless Main St., N.	40
Ash Ln., E.	0–600E	Euless Main St., east to Fuller Wiser Rd.	30
	600–1000E	Fuller Wiser Rd. east to State Highway 360 Frtg. Rd.	30
Ash Ln., W.	0–1000W	Euless Main St., N. west to Industrial Blvd., N. (State Highway 157)	30
Bear Creek Parkway	1600–2100N	Ash Ln., E. to Mid Cities Blvd.	20
	0–1000N	State Highway 183 north to Harwood Road	35
Chisholm Trail	1100–1200	State Highway 121 to Rio Grande Boulevard.	30
Euless Blvd., E. (State Highway 10)	0–600E (E/B lane only)	Euless Main St., S. east to 800 feet east of Dickey Dr. (Ft. Worth city limits)	45
	0–600E (W/B lane only)	Adjacent to Fuller Wiser Rd. and Frtg. Rd. intersection west to Euless Main St., N.	45
Euless Blvd., W. (State Highway 10)	0–1700W (W/B lane only)	Euless Main St., N. west to 100 feet west of Debra Dr.	45
Euless Blvd., W. (State Highway 10)	1700–3200W (W/B lane only)	100 feet west of Debra Dr. west to 700 feet west of Raider Dr. (Hurst city limits)	50
	1700–3200W (E/B lane only)	700 feet west of Raider Dr. (Hurst city limits) east to 700 feet west of Pamela Dr.	50
	0–1700W (E/B lane only)	700 feet west of Pamela Dr. east to Euless Main St., N.	45
Euless Main St., N.	0–3000N	Euless Blvd., W (State Highway 10) north to Glade Rd. (Grapevine city limits)	35
Euless Main St., S.	0–1000S	Euless Blvd., W. (State Highway 10) south to South Pipeline Rd. (Ft. Worth city limits)	35
Fuller Wiser Road	200–2800N.	Airport Frwy., E. W/B Frtg. Rd. north to State Highway 360 S/B Frtg. Rd.	35
Gateway Boulevard	2200–3000	Mid-Cities Boulevard north to Glade Road	40
Glade Rd., E.	0–1000E (E/B lane only)	Euless Main St., N. east to State Highway 360	35
Glade Rd., W.	0–1000W (E/B lane only)	Euless Main St., N. west to State Highway 121(Bedford city limits)	35
Harwood Rd., E.	0–1200E	Euless Main St., N. east to State Highway 360	40
Harwood Rd., W.	0–1000W	Euless Main St., N. west to Industrial Blvd., N. (State Highway 157)	35
Industrial Blvd., N. (State Highway 157)	0–2200N	Airport Frwy. (State Highway 183) north to 800 feet north of Mid Cities Blvd.	45

	2300–2400N (N/B on ramp to State Highway 121)	800 feet north of Mid Cities Blvd. north to State Highway 121	50
Industrial Blvd., S. (State Highway 157)	0–1000S	Airport Frwy. (State Highway 183) south to South Pipeline Rd. (Ft. Worth city limits)	45
Loving Trail	1100–1200	State Highway 121 to Rio Grande Boulevard	30
Mid Cities Blvd., E.	600–1700E	Fuller Wiser Rd. east to West Airfield Dr.	40
	0–600E	Euless Main St., N. east to Fuller Wiser Rd.	40
Mid Cities Blvd., W.	0–1000W	Euless Main St., N. west to Industrial Blvd., N. (State Highway 157)	40
Midway Dr., E.	0–600E	Euless Main St., N. east to Fuller Wiser Rd.	30
	600–1000E	Fuller Wiser Rd. east to State Highway 360 Frtg. Rd.	35
Midway Dr., W.	0–1000W	Euless Main St., N. west to Industrial Blvd., N. (State Highway 157)	30
Raider Dr.	1100–1500S	West Pipeline Rd. south to South Pipeline Rd. (Ft. Worth city limits)	35
Rio Grand Boulevard	2200–3000	Glade Road to Cheek-Sparger Road	30
	3000–3100S	Glade Road to 650 feet south of Glade Road	30
Royal Parkway	1100–1500S	Euless Blvd., W. (State Highway 10) south to South Pipeline Rd. (Ft. Worth city limits)	35
State Highway 121	2100–3000N (Main lanes)	Mid Cities Blvd. north to Glade Rd. (Grapevine city limits)	60
	2200–3000N (N/B Frtg. Rd.)	800 feet north of Mid Cities Blvd. north to Glade Rd. (Grapevine city limits)	50
	2200–3000N (S/B Frtg. Rd.)	Glade Rd. (Grapevine city limits) south to Mid Cities Blvd.	50
	2100–2900N (S/B off ramp to State Highway 157)	1000 feet south of Glade Rd. (Grapevine city limits) south to Mid Cities Blvd.	50
State Highway 360	400–3000N (Both Frtg. Rd.)	1200 feet south of Midway Dr. (Ft. Worth city limits) north to Glade Rd. (Grapevine city limits)	50
State Highway 360	400–3000N Main Lanes	1200 feet south of Midway Dr. (Ft. Worth city limits) north to Glade Rd. (Grapevine city limits)	60
South Pipeline Rd.	1500–2100W	Heather Dr. (Ft. Worth city limits) west to 800 feet east of Royal Pkwy. intersection (Ft. Worth city limits)	35
Westpark Way	100–1200S	Airport Frwy., W. (State Highway 183 and Bedford city limits) south to Euless Blvd., W. (State Highway 10)	40
	1200–1500S	Euless Blvd., W. (State Highway 10) south	35

		to South Pipeline Rd. (Ft. Worth city limits)	
West Pipeline Rd.	2100–4300W	Euless Blvd. W. (State Highway 10) west to Arwine Cemetery Rd. (Hurst city limits)	35
5-E Employee Loop Rd.	2900–3100S		30
East 30th St. (Glade Rd.)	2400–2600E		45
North I Pkwy	2900–3300S		55
North International Pkwy	3400–3600S		30
North International Pkwy	3700–4300S		55
North Service Rd. (International Pkwy)	2900–3250S		35
North Service Rd. (International Pkwy)	3300–3900S		35
South 20th Ave.	3700–4100S		30
South 22nd Ave.	3200–3300E		30
South Airfield Dr.	1800–2900E		45
South International Pkwy	2900–3300S		55
South International Pkwy	3400–3600S		30
South International Pkwy	3700–4300S		55
South Service Rd. (International Pkwy)	2900-3300S		35
South Service Rd. (International Pkwy)	3400–3900S		35
West 29th St. (Glade Rd.)	1300–1600E		35
West 32nd St.	2100–2200E		30
West 33rd St.	2100–2200E		30
West Airfield Dr.	2900–3400E		45

(Code 1974, § 14-66; Ord. No. 1108, § 1, 4-27-93; Ord. No. 1161, § I, 12-13-94; Ord. No. 1162, § I, 12-13-94; Ord. No. 1202, § I, 3-26-96; Ord. No. 1203, § I, 3-26-96; Ord. No. 1226, § 1, 1-16-97; Ord. No. 1227, § 1, 1-28-97; Ord. No. 1304, § 2, 1-13-98; Ord. No. 1352, § 1, 2-23-99; Ord. No. 1491, § I, 8-14-01; Ord. No. 1531, §§ I, II, 5-14-02; Ord. No. 1726, §§ I, II, 2-28-06; Ord. No. 1841, § II, 2-10-09; Ord. No. 1890, § 1, 10-26-10; Ord. No. 1908, § 1, 4-26-11; Ord. No. 1913, §§ I, II, 6-28-11)

Cross reference–Streets and sidewalks, ch. 70.

Sec. 82-63 Same–School zones

(a) Generally. On that portion of those streets or highways being designated in this section as a school zone, the prima facie maximum reasonable and prudent speed is 20 miles per hour between 7:30 a.m. and 4:00 p.m., Monday through Friday, or "when flashing," provided that an appropriate sign giving notice thereof is erected. It shall be an affirmative defense to a charge of exceeding such prima facie maximum speed, established in this section, that the day in question was a day when there were no classes in session at the nearest school, as well as at any school within 2,000 feet of the location of such alleged excessive speed.

(b) School zones enumerated.

(1) Central Junior High School zone:

a. On West Pipeline Road between signs posted at or near the property lines of 2025 West Pipeline Road (Bell Manor Addition, block 5, lot 19A1, southwest corner) for westbound traffic and 3201 West Pipeline Road (McCoy Survey, abstract 10-73, lot 2C, northwest corner) for eastbound traffic.

b. On Raider Drive between signs posted at or near the property line of 3011 Needles (Bell Hi Addition, block 3, lot 12, southwest corner) and West Pipeline Road for northbound traffic.

c. On Raider Drive from West Pipeline Road (continuation of zone established in subsection (b)(1)a. of this section) and end of zone sign for southbound traffic.

(2) Lakewood Elementary school zone:

a. On West Ash Lane between signs posted at or near the property lines of 613 Dogwood Circle (Lakewood Addition, block A, lot 2; southeast corner) for westbound traffic and approximately 200 feet west of intersection with Donley Drive (Timber Ridge Addition, block 4, lot 36, northeast corner) for eastbound traffic.

b. On Lakewood Drive between signs posted at or near the property line of Lakewood Elementary School (HEB School District, tract 2B2, northeast corner) for southbound traffic.

c. On Lakewood Drive from West Ash Lane to end of zone sign for northbound traffic.

d. On Euless North Main Street between signs posted at or near the property line of 1504 North Main Street (Oakwood Acres Estate, block 2, lot 9, southwest corner) for northbound traffic and 1701 North Main Street (Oakland Estates, block 2, lot 20, northeast corner) for southbound traffic.

e. On Donley Drive at or near the north right-of-way line of Ash Lane for northbound traffic and on Bocowood Drive at or near the west right-of-way line of Lakewood Boulevard for westbound traffic.

(3) Midway Park Elementary school zone:

a. On North Ector Drive between signs placed at or near the property line of 401 Milam Drive (Midway Park Addition, Block 26, Lot 28, southwest corner) for northbound traffic, and Midway Park Elementary School grounds (J. P. Halford Survey, Abstract 711, Tract 3B, northeast corner) for southbound traffic.

b. On Stonewall Drive between signs posted at or near the property line of 417 Stonewall Drive (Midway Park Addition, block 27, lot 15, southwest corner) for an intersection with North Ector Drive for westbound traffic.

c. On Stonewall Drive for North Ector Drive to end school zone sign for eastbound traffic.

d. On Aransas Drive between signs posted at or near the property line of 509 Aransas Drive (Midway Park Addition, block 28, lot 16, northeast corner) and intersection with North Ector Drive for westbound traffic.

e. On Aransas Drive from North Ector Drive to end school zone sign for eastbound traffic.

(4) North Euless Elementary school zone:

a. On Harwood Road, W. between signs posted at or near the property line of 1101 North Main Street (Oak Forest Addition, Block 2, Lot 1, southwest corner) for westbound traffic, and 505 Harwood Road, W. (Midway Park Addition, Block 33, Lot 12, middle of north property line) for the eastbound traffic.

b. On Denton Drive between signs posted at or near property line of 1016 Denton Drive (Midway Park Addition, block 9, lot 20, northwest corner) for northbound traffic and North Euless Elementary School grounds for southbound traffic.

c. On Harwood Road, E, between signs posted at or near the southeast corner of 103 Harwood Road, E. (Century Plaza Addition, Block 1, Lot 1) for westbound traffic and a point in the south right-of-way line of Harwood Road, W. perpendicular to the southwest corner of 1101 North Main Street (Oak Forest Addition, Block 2, Lot 1) for eastbound traffic.

d. On North Main Street between signs posted at or near the northeast corner of 1101 North Main Street (Oak Forest Addition, Block 2, Lot 1) for southbound traffic and the southwest corner of 1080 North Main Street (Harwood Crossing Subdivision Block 1, Lot 1, southwest corner) for northbound traffic.

(5) Oakwood Elementary school zones:

a. On Simmons Drive between signs posted at or near the property lines of 602 Simmons Drive (Oakwood Terrace West Addition, block 10, lot 2, southeast corner) for southbound traffic, and 807 Simmons Drive (Oakwood Terrace West Addition, block 7, lot 31, northwest corner) for northbound traffic.

b. On South Mills Drive between signs posted at or near the (Oakwood Terrace West Addition, Block 2, Lot 4, southeast corner) for southbound traffic and 807 Simmons Drive (Oakwood Terrace West Addition, Block 7, Lot 31, northwest corner) for northbound traffic.

c. On Jones Drive between signs posted at or near the property line of 506 Jones Drive (Oakwood Terrace West Addition, Block 6, Lot 1 southeast corner) for westbound traffic and intersection of the east right-of-way line of South Mills Drive with the south right-of-way line of Jones Drive for eastbound traffic.

d. On Ranger Street between signs posted at or near the intersection of the west right-of-way line of Ranger Street with the south right-of-way line of Jones Drive for southbound traffic and the intersection of the north right-of-way line of Whitener Road with the east right-of-way line of Ranger Street for northbound traffic.

e. On Whitener Road between signs posted at or near the intersection of the north right-of-way line of Whitener Road with the west right-of-way line of Simmons Drive for westbound traffic and the intersection of the south right-of-way line of Whitener Road with the east right-of-way line of South Mills Drive for eastbound traffic.

(6) South Euless Elementary school zone:

a. On Euless South Main Street between signs posted at or near the property lines of 506 South Main Street (Huitt Survey, abstract 684, tract 2D2, southeast corner) for southbound traffic, and approximately 100 feet south of intersection with Landover Lane (Southland Addition, block 1, lot 1, northwest corner) for northbound traffic.

b. On Hollywood Street from signs posted at or near property line of 701 Henslee Drive (Cedar Hills Estate, block 8, lot 1, northeast corner) and intersection with Euless South Main Street for eastbound traffic.

(7) Trinity High school zone:

a. On Trojan Trail between signs posted at or near the property line of First Baptist Church of Euless (J.P. Halford Survey, abstract 711, tract 7A6, northwest corner) for eastbound traffic, and approximately 100 feet west of intersection with Ector Drive (J.P. Halford Survey, abstract 711, tract 73B3, lot 12, middle of south property line) for the westbound traffic.

b. On West Midway Drive between signs posted at or near property lines of Trinity High School grounds (J.P. Halford Survey, Abstract 711, Tract 7A1A1, northwest corner) for eastbound traffic and 605 Victorian Drive (Midway Park-3rd Inst. Block 42, Lot 12-R, southwest) for westbound traffic.

(8) Wilshire Elementary school zone:

a. On Signet Drive between signs posted at or near the property lines of 413 Wilshire Drive (Wilshire Village, block 4, lot 12, southeast corner) for westbound traffic and 1803 Signet Drive (Wilshire Village, block 11, lot 18, northeast corner) for eastbound traffic.

b. On Kynette Drive between signs posted at or near the property lines of Wilshire Elementary School grounds (Wilshire Village Addition, block 12, except lots 1-6, northwest corner) for eastbound traffic, and 1602 Kynette Drive (Wilshire Village Addition, block 3, lot 10R, northeast corner) for westbound traffic.

c. On Westpark Way from the 600 block through the 700 block, 60 feet north of the southern property line of lot 4, Parkview Addition, to the northern property line of lot 6, block 1, Park Hill Addition.

d. On Wilshire Drive between signs posted at or near the property lines of 302 Wilshire Drive (Wilshire Village, block 3, lot 15, northeast corner) for southbound traffic and 501 Wilshire Drive (Wilshire Village, block 7, lot 12, southwest corner) for northbound traffic.

(9) Bearcreek Elementary school zone:

a. On Glade Road eastbound from the 600 block through the 500 block, 500 feet west of the intersection of Glade Road and Baze Road through 150 feet east of the intersection of Glade Road and Baze Road.

b. On Baze Road from the 2400 block through the 3000 block. From lot 13, block 5, Bearcreek Est. through TR 1 B 2, 5.212 acres B Harrington survey A 808 east boundary.

c. On Bearcreek Drive from the 200 block through the 2300 block. From lot 3, block 1, Bearcreek Est. through lot 7, block 6, Bearcreek Est.

d. On Euless North Main Street from the 2400 block through the 2500 block. From lot 3, block E, McCormick Farm Est. through lot 3, block A, McCormick Farm Est.

(10) Euless Junior High school zone:

a. On Himes Drive between signs posted at or near the intersection of Himes Drive and S.H. 183 westbound Frontage Road for northbound traffic and 405 Himes Drive (Midway Park Addition No. 2, block 22, lot 1, southeast property corner) for southbound traffic.

(11) Harmony Science Academy:

a. On Del Paso Street between signs posted at or near the entrance to Del Paso Street from Industrial Boulevard for eastbound traffic and signs posted at or near the entrance to Del Paso Street from West Euless Boulevard for

southbound traffic.

(c) School crossings enumerated. On that portion of those streets or highways designated hereunder as school crossings or school crossing areas, based upon engineering and traffic investigations made as authorized by law, the following prima facia speed limits indicated in this subsection for vehicles are hereby determined and declared to be reasonable and safe; and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

Street	**Block number/ (portion of street)**	**Extent**	**Max. speed (mph)**
Airport Frwy., W. (State Highway 183)	200–600W (W/B Frtg. Rd.) (school crossing)	100 feet west of Byers St. west to 100 feet west of Ector Dr.	25 or 40 (as signed)
Euless Blvd., W. (State Highway 10)	200–500W (E/B lane only) (school crossing)	100 feet west of Norman Dr. east to 100 feet east of Martha St.	35 or 45 (as signed)
Euless Blvd., W. (State Highway 10)	200–500W (W/B lane only) (school crossing)	100 feet east of Martha St. west to 250 feet east of Ector Dr.	35 or 45 (as signed)
Industrial Blvd., N. (State Highway 157)	300–600N (school crossing)	260 feet south of Trojan Trail north to 500 feet north of Midway Dr.	35 or 45 (as signed)

(Code 1974, § 14-66; Ord. No. 1075, § I, 4-14-92; Ord. No. 1304, § 1, 1-13-98; Ord. No. 1414, § I, 4-11-00; Ord. No. 1540, § I, 6-25-02; Ord. No. 1905, § 1, 3-22-11; Ord. No. 2046, § 1, 10-14-14)

Sec. 82-64 One-way roadways and rotary traffic islands

(a) The city council may designate any highway or any separate roadway under its jurisdiction for one-way traffic and shall erect appropriate signs giving notice thereof.

(b) Upon a roadway designated and signposted for one-way traffic, the driver of a vehicle shall drive only in the direction designated.

(c) The driver of a vehicle passing around a rotary traffic island shall drive only to the right of such island.

(Code 1974, § 14-76)

Sec. 82-65 Driving on sidewalk

The operator of a vehicle shall not drive or park a vehicle within any sidewalk area, other than to drive over such area at a permanent or temporary driveway.

(Code 1974, § 14-92)

Cross reference–Streets and sidewalks, ch. 70.

Sec. 82-66 Truck routes–Definitions

The following words, terms and phrases, when used in section 82-67, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Trailer means every vehicle, with or without motor power, designed for carrying persons or property and for being drawn by a motor vehicle.

Truck means every motor vehicle with a gross weight load in excess of 6,500 pounds, designed, used or maintained primarily for transportation of property and which, for the purposes of section 82-67, shall include, but not be limited to, trailers and truck tractors.

Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(Code 1974, § 14-100)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 82-67 Same–Streets designated; emergencies; truck traffic confined; emergency vehicles excepted

(a) Streets designated. The following streets, highways and thoroughfares in the city shall be mandatory truck routes:

(1) State Highway No. 183 (Airport Freeway);

(2) FM Highway No. 157 (Industrial Boulevard);

(3) State Highway No. 10 (Euless Boulevard);

(4) Harwood Road;

(5) State Highway No. 360;

(6) Westpark Way between S. Pipeline Rd. and State Highway No. 10;

(7) Raider Drive from S. Pipeline Rd. to W. Pipeline Rd;

(8) Heather Drive between S. Pipeline Rd. and State Highway No. 10;

(9) S. Pipeline Road;

(10) S. Ector Drive between State Highway No. 183 and State Highway No. 10;

(11) State Highway No. 121;

(12) Mid-Cities Blvd. between FM Highway No. 157 and State Highway No. 360;

(13) West Pipeline Road between Raider Drive and Central Drive.

(b) In emergency. The chief of police shall have the power and authority to establish and designate certain mandatory truck routes under emergency conditions.

(c) Truck traffic confined to. Truck traffic is prohibited on all streets in the city, except on designated truck routes.

(d) Authorized emergency vehicles excepted. Authorized emergency vehicles shall not be restricted to designated truck routes.

(Code 1974, §§ 14-101-14-104; Ord. No. 1370, § 1, 6-22-99; Ord. No. 1903, § 1, 2-22-11)

Sec. 82-68 City rules applicable to certain subdivision roads

(a) The following specified traffic rules, listed in subsection (c), that apply to public streets in the city are hereby extended by this section to the streets located within certain subdivisions:

Fountain Park Addition

Harwood Court Addition

Little Bear Addition

San Marino Villas Addition

The Landing at Eden Lake Addition

The Enclave at Wilshire Park Addition

(b) The city council hereby requires that owners of property in the subdivision shall pay all or part of the costs of extending and enforcing the traffic rules in said subdivision, including the costs associated with the placement of necessary official traffic-control devices. The city council shall consult with the Euless Police Department to determine the cost of enforcing traffic rules in this subdivision.

• Due to the unique arrangement of the street in San Marino Villas subdivision and the need to protect the public through unimpeded emergency vehicle access to the homes in this subdivision, the provisions of this section shall not apply to the following areas, which shall be marked and maintained as fire lanes and are subject to all requirements governing fire lanes:

a. That section of roadway originating on Fuller-Wiser Road and terminating at Blocks A and B, Lot Line 3/4;

b. That section of roadway comprising the hammerhead turn around, beginning at Blocks A and B, Lot line 13/14 and extending into and incorporating the entire portion of the hammerhead.

• Due to the unique arrangement of the street in Harwood Court Addition subdivision and the need to protect the public through unimpeded emergency vehicle access to the homes in this subdivision, the provisions of this section shall only apply to the following areas, with all other streets marked and maintained as fire lanes and are subject to all requirements governing fire lanes:

a. Horseshoe Drive and Bridle Drive.

(c) The private roads located in the subdivision are considered to be public highways or streets for the purposes of the application and enforcement of the following specified traffic laws which apply to public streets within the city. Without limiting the generality hereof, the following specific traffic rules and regulations are hereby applied to the roads within said subdivision.

(1) Failure to yield to an emergency vehicle-Section 545.156.

(2) Interfering with emergency vehicles-Section 545.407.

(3) Crossing a fire hose-Section 545.408.

(4) Regulations governing parking, stopping or standing-Sections 545.302 and 545.303.

(5) Removal of unlawfully stopped vehicle-Section 545.305.

(6) Passing a school bus-Section 545.066.

(7) Driving with expired, wrong or fictitious license plates or registration insignia-Sections 502.407 and 502.409.

(8) Driving without a driver’s license, or with an expired, suspended or revoked license-Sections 521.021, 521.451, 521.457.

(9) Failure to maintain financial responsibility (no insurance)-Sections 601.191, 601.195.

(10) Failure to comply with a lawful order of a police officer-Section 542.501.

(d) The following specified traffic rules [listed in subsection (f)] that apply to public streets in the city are hereby extended by this section to the streets located within [certain subdivisions]:

Courtyards Addition

Hideaway Addition

(e) As a condition of extending such traffic rules, the city council hereby requires that owners of property in the subdivision shall pay all or part of the costs of extending and enforcing the

traffic rules in said subdivision, including the costs associated with the placement of necessary official traffic-control devices. The city council shall consult with the city police department to determine the cost of enforcing traffic rules in this subdivision.

(f) The private roads located in the subdivision are considered to be public highways or streets for the purposes of the application and enforcement of the following specified traffic laws which apply to public streets within the city. Without limiting the generality hereof, the following specific traffic rules and regulations are hereby applied to the roads within said subdivision.

(1) Failure to yield to an emergency vehicle-Section 545.156.

(2) Interfering with emergency vehicles-Section 545.407.

(3) Crossing a fire hose-Section 545.408.

(4) Regulations governing parking, stopping or standing-Sections 545.302 and 545.303.

(5) Removal of unlawfully stopped vehicle-Section 545.305.

(6) Passing a school bus-Section 545.066.

(7) Driving with expired, wrong or fictitious license plates or registration insignia-Sections 502.407 and 502.409.

(8) Driving without a driver's license, or with an expired, suspended or revoked license-Sections 521.021, 521.451, 521.457.

(9) Failure to maintain financial responsibility (no insurance)-Sections 601.191, 601.195.

(10) Failure to comply with a lawful order of a police officer-Section 542.501.

(11) Maximum speed requirement-Section 545.351.

(Ord. No. 1567, § 1, 3, 4, 12-10-02; Ord. No. 1568, § 1, 3, 4, 12-10-02; Ord. No. 1620, §§ I-IV, 1-13-04; Ord. No. 1630, §§ I, III, 3-23-04; Ord. No. 1640, § I, 4-27-04; Ord. No. 1774, § IV, 4-10-07; Ord. No. 1840, §§ I, IV, 2-10-09; Ord. No. 1869, §§ I-IV, 3-23-10)

Secs. 82-69–82-85 Reserved

ARTICLE IV. PARKING*(80)

Sec. 82-86 Angle parking

It shall be unlawful to park vehicles at an angle not greater than 45 degrees to the line of traffic at such places in the city as the city council shall by resolution determine that angle parking shall be permitted and shall cause such places to be marked or signed, and in all places where sidewalks have been set back and provisions made for parking vehicles across or inside of the

usual curbline on any street in the city. In leaving such angle parking space, vehicles shall not be backed into the traffic lane any further than necessary to get straightened out and faced in the proper direction for traffic between such space and the center of the street.

(Code 1974, § 14-111)

Sec. 82-87 Truck parking

No truck shall be parked in any residential area, provided, however, a truck shall be permitted to park in a residential area only for the time necessary for loading, unloading or the delivery of goods, wares and merchandise.

(Code 1974, § 14-112(c))

Sec. 82-88 Same location

No person shall park a vehicle upon any public street in the city in the same location for more than 24 continuous hours.

(Code 1974, § 14-112(d))

Sec. 82-89 Truck and truck tractor vehicles

No person shall park or allow to remain standing on any parking lot, public street or any other property within the city any truck, truck tractor, trailer, or bus unless permitted by chapter 84 (Unified Development Code) or such vehicle is operated by and carries some external identification of a business located on such property or served by such parking lot. It shall be a defense to prosecution under this section that such vehicle, truck, truck tractor, trailer rig, trailer or bus was involved in a delivery from such vehicle, truck, truck tractor, trailer rig, trailer or bus to a business located upon such property or served by such parking lot. Any vehicle in violation of this section is subject to the vehicle being towed pursuant to section 82-41.

(Code 1974, § 14-112(e); Ord. No. 1684, § 3, 4-12-05)

Cross reference–Unified development code, ch. 84.

Sec. 82-90 Spaces for the handicapped

(a) Adoption of state law. The provisions of Vernon's Ann. Civ. St. art. 6675a-5e.1, both as to public and private property, are hereby adopted and shall be applicable within the jurisdiction of the city.

(b) Identification of spaces on private property. Parking spaces on private property which have been designated by the owner or person in control thereof for the exclusive use of vehicles transporting disabled persons, as that term is defined by state law, shall be identified in the manner set forth in the rules promulgated by the state purchasing and general services commission for the identification of such parking spaces on public property. One copy of such rules, marked Exhibit "A", is incorporated in this section by reference and has been filed in the office of the city secretary for permanent record and inspection.

(c) Offenses and punishment. The provisions of Vernon's Ann. Civ. St. art. 6675a-5e.1, § 10, relating to offenses and punishment, shall apply to any parking space or area for the disabled located on private property within the city, which has been identified in compliance with the preceding subsection.

(Code 1974, § 14-115)

Cross reference–Businesses, ch. 18; streets and sidewalks, ch. 70.

Sec. 82-91 Buses, boats, recreational vehicles and/or trailers

(a) Definitions. As used in this section the following definitions shall apply.

Boat means water recreational vehicle.

Bus means a motor driven passenger vehicle, 25 feet or greater in length which has the capacity to accommodate more than 15 persons.

On-street parking permit means written governmental permissions, authorized by the chief of police or appointed designee, empowering the holder thereof to park or store a bus, recreational vehicle, boat and/or trailer on a public street within a residential zoning district for a temporary period of time not to exceed one week or seven consecutive days in duration. Said permit shall identify the owner or operator of such vehicle, nearest street address or precise description of location where the vehicle is to be parked or stored, the date the permit was issued, date of expiration and any other information, conditions or special restrictions deemed necessary by the chief of police at the time of issuance.

Recreational vehicle means any vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed to serve as temporary living accommodations for recreational, camping or travel use and including but not limited to travel trailers, camping trailers, converted buses and self-propelled motor homes. This definition does not include pick-up trucks equipped with camper units, pick-up trucks with bed caps or vans that have a manufacturer's rated carrying capacity of three-quarter-ton or less.

Trailer means any vehicle that is towed and used for hauling goods, boats, equipment or refuse.

(b) Regulations.

(1) It shall be unlawful for any person to park or store any bus, trailer, boat or recreational vehicle on a public street within any area of the city zoned for residential uses. This provision shall not prevent the temporary parking or standing of such vehicles engaged in the expeditious loading or unloading of passengers or contents. Neither shall this provision prevent the temporary parking of vehicles on residential streets in order to allow for the typical maintenance of residential properties such as lawn mowing, edging, house painting, etc.

(2) It shall be an affirmative defense to prosecution for parking or storing a bus, trailer,

boat or recreational vehicle on public streets within areas zoned for residential uses if a valid “on-street parking permit” has been issued to the owner or operator of the vehicle and the parking or storage of the vehicle in no way violates any other pertinent state statute, city code, ordinance, section or provision.

(3) The chief of police or an appointed designee shall have sole authority to issue, revoke or extend any “on-street parking permit” and may impose any additional conditions or restrictions at time of issuance deemed necessary to ensure that the health, safety and welfare of the residents and guests of the city are not jeopardized.

(4) No more than three “on-street parking permits” may be issued to allow a bus, trailer, boat or recreational vehicle to parked on the same address or street location within the same calendar year, unless otherwise deemed necessary by the chief of police.

(5) See chapter 84, subsection 84-85(n)-”Home occupations” for further regulations.

(Ord. No. 1185, § I, 8-22-95; Ord. No. 1684, § 4, 4-12-05)

Secs. 82-92–82-110 Reserved

ARTICLE V. PLACING AND MAINTENANCE OF LOCAL TRAFFIC-CONTROL SIGNS

Sec. 82-111 Applicability of article; exemptions

(a) The city council here by authorizes, ratifies and confirms the placing and maintenance of all traffic-control signs now existing in the corporate city limits, under their authority.

(b) The traffic-control signs on state highway right-of-way are not under the authority of the city.

(Ord. No. 1128, § I, 2-22-94)

Sec. 82-112 Future traffic-control signs

The city council further authorizes the future placing and maintenance of all traffic-control signs at or under the direction of the city engineer, said signs to conform to the Texas Manual of Uniform Traffic-control Devices, adopted by the Texas Department of Transportation of the State of Texas. A record shall be made of the placement of each such traffic-control sign, such record to be maintained in the office of the city engineer.

(Ord. No. 1128, § II, 2-22-94)

Sec. 82-113 Failure to obey traffic-control signs

Wherever and whenever any such traffic-control signs have been placed, it shall be unlawful for the driver or operator of any vehicle to fail to comply in obedience thereto and such driver or operator who has complied, as required, shall be subject to the usual right-of-way rules described by law.

(Ord. No. 1128, § III, 2-22-94)

Sec. 82-114 Penalty

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not to exceed $500.00.

(Ord. No. 1128, § IV, 2-22-94)

Secs. 82-115–82-129 Reserved

ARTICLE VI. COMMERCIAL MOTOR VEHICLE SAFETY STANDARDS*(81)

Sec. 82-130 Vehicle restrictions

(a) Except as otherwise provided in this article, it shall be unlawful for any person to drive, operate or move, or to cause or permit to be driven, operated, or moved, on any public street within the city, any commercial motor vehicle with or without load, contrary to any of the regulations contained in this section.

(b) Commercial motor vehicles shall be subject to the vehicle size and weight limitations and restrictions delineated in V.T.C.A., Transportation Code Ch. 621 and to the commercial motor vehicle safety standards delineated in V.T.C.A., Transportation Code Ch. 644.

(c) No commercial motor vehicle, truck-tractor, trailer, semitrailer nor combination of such vehicles shall be operated or caused to be operated or permitted to be operated upon any public street within the city having a weight in excess of any one or more of the following limitations:

(1) In no event shall the total gross weight, with load, of any vehicle or combination of vehicles, exceed 80,000 pounds.

(2) No single axle shall carry a load in excess of 20,000 pounds. A single axle weight shall be defined as the total weight transmitted to the road by all wheels whose centers may be included between two parallel transverse vertical planes 40 inches apart, extending across the full width of the vehicle.

(3) The total gross weight concentrated on the roadway surface from any tandem axle group shall not exceed 34,000 pounds for each such tandem axle group. Tandem axle weight shall be defined as the total weight transmitted to the road by two or more consecutive axles whose centers may be included between two parallel transverse vertical planes spaced more than 40 inches and not more than 96 inches apart, extending across the full width of the vehicle.

(4) Vehicles used exclusively to transport ready-mix concrete may be operated upon the public streets of the city with a tandem axle load not to exceed 46,000 pounds, a single axle load not to exceed 23,000 pounds and a gross load not to exceed 69,000

pounds. Before any vehicle used exclusively to transport ready-mixed concrete with a tandem axle load in excess of 34,000 pounds may be operated upon the public streets of the city, the owner thereof shall file with the police department a surety bond in the sum of $15,000.00. Such bond shall be conditioned that the owner of such vehicle will pay to the city, within the limit of the bond, all damages done to the public streets and roadways by reason of the operation of such vehicle with a tandem axle load in excess of 34,000 pounds.

(5) The tires shall not carry a weight heavier than the weight specified and marked on the sidewall of the tire, unless the vehicle is being operated under the terms of a special permit issued by the state.

(d) The provisions of this section shall not apply to:

(1) Any person operating or causing to be operated a motor vehicle under a valid and subsisting permit for the operation of overweight or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled issued by the state department of transportation or the city under the provisions of V.T.C.A., Transportation Code Ch. 623.

(2) Emergency vehicles operating in response to any emergency call.

(3) Vehicles operated for the purpose of constructing or maintaining any public utility or street in the city.

(4) A single motor vehicle used exclusively to transport recyclable materials may be operated in accordance with V.T.C.A., Transportation Code § 622.133.

(5) Vehicles used exclusively to transport milk may be operated in accordance with V.T.C.A., Transportation Code § 622.031.

(6) Vehicles operated on state highways in accordance with V.T.C.A., Transportation Code § 623.071.

(e) The permits referred to in subsection (d)(1) of this section shall be subject to the following:

(1) Upon written application timely made by any person who desires to operate or cause to be operated on the public streets within the city, overweight or oversize equipment for the transportation of such commodities as cannot be reasonably dismantled, where the total gross weight or size of the vehicle and its load exceed the limits allowed by this section, the police department may issue a permit for the operation of such equipment or fleets of equipment for a specified period of time, over a route or routes to be designated by the police department, if such routes can be determined at the time application for the permit is made.

(2) The application for the permit provided for in this article shall be in writing and contain the following:

a. The kind of equipment to be operated, with a description of same;

b. The street or streets over which the equipment is to be operated and the date or dates of the operation; and

c. The application shall be signed by the applicant.

(3) Before a permit is issued under this article, the applicant for the same shall file with the police department a bond in an amount to be set and approved by the police department. The amount of such bond shall not exceed the product of the number of vehicles for which a permit is sought multiplied by $15,000.00, which bond shall be payable to the City of Euless and conditioned that the applicant will pay to the city the sum of money necessary to repair any damage which might be occasioned to any public street or publicly owned fixture appurtenant to such street by virtue of operation of any commercial vehicle under such permit. Venue of any suit for recovery upon the bond shall be in Tarrant County and any bond issued hereunder shall contain an unambiguous contractual provision to that effect.

(4) A fee shall be charged for each permitted vehicle as outlined in chapter 30 of this Code.

(5) Any permit issued hereunder shall include at least the following:

a. The name of the applicant, the date or dates of the operation, and a description of the equipment to be operated;

b. The signature of an authorized member of the police department;

c. The dates for which the permit is issued; and

d. The specified street or streets over which the equipment is to be operated.

(Ord. No. 1899, § 1, 1-25-11)

Sec. 82-131 Offenses

(a) It shall be unlawful for any person to operate or permit to be operated or aid in the operation of a vehicle on the public streets of the city in violation of this article. The appropriate officers of the police department are empowered to enforce the provisions of this article.

(b) It shall be unlawful for any person to load, or cause to be loaded, a vehicle for operation on the public streets of the city with the intent to violate the weight limitations established in this article. Intent to violate such limitations is presumed if the loaded vehicle exceeds the applicable gross vehicular weight limit by 15 percent or more.

(Ord. No. 1899, § 1, 1-25-11)

Sec. 82-132 Enforcement of violations by city; fine

Any police officer certified as a commercial motor vehicle inspector having reason to believe

that the gross weight, vehicle tire load limit, or axle load of a loaded motor vehicle is unlawful, is authorized to weigh the same by means of a portable or stationary scales, and to require that such vehicle be driven to the nearest available scales for the purpose of weighing. If a vehicle is found to be in violation of the weight limits set out in this article, the driver of the vehicle may be issued a citation. An offense under this article is punishable by a fine not to exceed the maximum amount set by federal and state law.

(Ord. No. 1899, § 1, 1-25-11)

CHAPTER 83
RESERVED

CHAPTER 84
UNIFIED DEVELOPMENT CODE*(82)

ARTICLE I. GENERAL PROVISIONS

Sec. 84-1 Title

This chapter shall be known and may be as the Unified Development Control Document of the City of Euless.

(Ord. No. 1133, § 1(1-100), 3-22-94)

Sec. 84-2 Adoption of statutes authorizing zoning ordinances and subdivision regulations

(a) Zoning statutes. The statutes of the state authorizing and empowering cities to zone their cities and regulate and restrict the height, number of stories, and size of buildings and other structures; the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes; and in the case of designated places and areas of historical and cultural importance, to regulate and restrict the construction, alteration, reconstruction or razing of buildings and other structures; and authorizing and empowering the local legislative body to divide the municipality into districts of such numbers, shapes and areas as may be deemed best suited to carry out the purposes set out in such statutes, and within such districts to regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land, the same being Local Government Code Sections 211.001-211.013 in Vernon's Texas Codes Annotated (V.T.C.A.), are hereby adopted for and on behalf of the city; and the city, acting through its duly authorized officials, shall have all of the rights, powers, privileges and authority authorized and granted by and through such statutes.

(b) Platting statutes. The statutes of the state authorizing and empowering cities to regulate the platting and recording of subdivisions or additions situated within the corporate limits of and

within the extraterritorial jurisdiction of such city, the same being Local Government Code Sections 212.001-212.017 in Vernon's Texas Codes Annotated, are hereby adopted for and on behalf of the city, and the city acting through its duly authorized officials shall have all the rights, powers, privileges and authority authorized and granted by and through such statutes.

(Ord. No. 1133, § 1(1-200), 3-22-94)

Sec. 84-3 Purpose

The purpose of this chapter is the promotion of the health, safety, and general welfare of the community. The zoning regulations, zoning districts, and platting requirements herein established have been designed to:

(1) Prevent adverse or undesirable effects that incompatible uses could have on each other;

(2) Assure sufficient, suitable land for future development;

(3) Protect and improve the physical environment;

(4) Protect and maintain property values;

(5) Ensure that land uses are properly situated in relation to one another;

(6) To guide public and private policy and action and control density so that property can be adequately serviced by public services and facilities;

(7) Preserve and develop the community's economic base;

(8) Establish reasonable standards of design and procedures for subdivisions and resubdivisions in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land;

(9) Provide that the cost of improvements which primarily benefit the tract of land being developed be borne by the owners or developers of the tract and that the cost of improvements which primarily benefit the entire community be borne by the community as a whole; and

(10) Ensure that streets, utilities, and drainage improvements needed by the subdivision are actually installed.

(Ord. No. 1133, § 1(1-300), 3-22-94)

Sec. 84-4 Intent of the unified development control document format

(a) Single design control system. The unified development control document combines zoning and subdivision regulations into a logical single design control system. This unified or combined approach offers several important advantages.

(b) Conforms to development trends. First, it conforms to the way that development, especially major residential development, tends to occur today. Any regulatory system that requires separate ordinances for different phases of the same project or that fails to respond to market realities is at best cumbersome and at worst unworkable.

(c) Administrative efficiency. The second advantage of the combined zoning and subdivision ordinance is it permits the land use control system to be administered more efficiently because (1) the administrators and members of the various bodies involved (the planning and zoning commission, board of adjustment, and city council) need to become familiar with only one set of regulations and (2) the approval process for all types of development are covered in one ordinance.

(d) Overlapping, conflicting and inconsistent land controls. A unified ordinance avoids the overlapping, conflicting or inconsistent ordinance provisions found in land use control systems consisting of separate zoning and subdivision ordinances, particularly when those ordinances were drafted by different individuals and adopted at different times.

(Ord. No. 1133, § 1(1-400), 3-22-94)

Sec. 84-5 Relationship to other laws and restrictions

If this chapter imposes a greater restriction upon land, buildings, or structures than is imposed by other ordinances, covenants, restrictions or agreements, then the provisions of this chapter shall govern. If other ordinances are more strict than this chapter, then the more strict provisions shall prevail.

(Ord. No. 1133, § 1(1-500), 3-22-94)

Sec. 84-6 Repeal of conflicting ordinances

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of the conflict only.

(Ord. No. 1133, § 1(1-600), 3-22-94)

Sec. 84-7 Definitions and word usage

(a) Word usage. In the interpretation of this chapter, the provisions and rules of this section shall be observed and applied, except when the context clearly requires otherwise:

Words used or defined in one tense or form shall include other tenses and derivative forms.

Words in the singular number shall include the plural number.

Words in the plural number shall include the singular number.

The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

The word “shall” is mandatory.

The word “may” is permissive.

The word “person” includes individuals, firms, corporations, associations, trusts, and any other similar entities.

The word “city” shall mean the City of Euless, Texas.

The word “code” shall mean the Euless Unified Development Control Document (chapter).

The word “council” shall mean the city council.

The word “commission” shall mean the planning and zoning commission.

The word “board” shall mean the zoning board of adjustment.

The word “administrator” shall mean the individual designated administrative responsibility by the city manager (usually the director of planning, development coordinator, building official, or city engineer).

In case of any difference of meaning or implication between the text of this code and any caption, illustration or table, the text shall control.

(b) Definitions. Certain words in this code not heretofore defined are defined as follows:

Abutting means having a common border with, or being separated from such common border by an alley or easement.

Accessory means incidental to another use or structure on the same lot.

Accessory building means a structure detached from a principal structure on the same lot and customarily incidental and subordinate to the principal building or use (see Appendix A).

Administrator means the city manager or his designee.

Adult entertainment enterprise means a business enterprise which, for consideration, offers, shows or displays any of the following:

(1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

(2) Activities between male and female persons and/or persons of the same sex when one or more of the persons are nude or semi-nude; or

(3) A book, magazine, newspaper, picture, photograph, film, video tape, motion-picture, drawing or other printed or pictorial material which explicitly depicts:

a. Human genitals in a state of sexual arousal; or

b. Acts of masturbation, sexual intercourse, or deviate sexual intercourse.

Alley means a public way which affords a secondary means of access to property abutting thereon, and not intended for general traffic circulation.

Apartment means a dwelling unit in a multifamily residential structure arranged, designed, or occupied as a place of residence by a single-family, individual or groups of individuals.

Approach means that portion of a roadway or driveway within 300 feet of another intersecting street or driveway where the movement of traffic approaches said intersection.

Arterial, major means a roadway which serves to interconnect regional roadways and link identifiable neighborhood areas with major centers of activity; include the service roads of controlled access roadways.

Arterial, minor means roadways which augment principal arterials with emphasis on the distribution of vehicles to higher and lower roadway classes and land access.

Basement means that portion of a building which is partly or wholly below grade, but so located that the vertical distance from grade to the floor below is greater than the vertical distance from grade to ceiling. A basement shall not be counted in computing the number of stories (see Appendix A).

Block means a tract of land bounded by streets, or a combination of streets, public parks, railroad rights-of-way, shorelines of waterways or corporate limits.

Buffering means the use of intensive landscaping or the use of landscaping with berms, walls or decorative fences to obstruct the view of certain uses or activities, or reduce noise from an abutting street or property.

Building means any structure, either temporary or permanent, having a roof or other covering and designed, built or intended for the shelter or enclosure of persons, animals, chattels or movable property of any kind or for an accessory use. Where independent units with separate entrances are divided by absolute fire separations, each unit so separated shall be deemed a building. This definition shall include structures wholly or partly enclosed with an exterior wall.

Building area means the area of a lot remaining after minimum yard and open space requirements have been met (see Appendix A).

Building coverage means the horizontal area measured within the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot (see Appendix A).

Building line means a line on a lot, generally parallel to a lot line or street right-of-way line, located a sufficient distance therefrom to provide the minimum yards required by this code. The building line delineates the area in which buildings are permitted subject to all applicable provisions of this code (see Appendix A).

Building front means the exterior wall of a building most nearly parallel with and adjacent to the front of the lot on which it is situated.

Building height means the vertical distance of a building measured on the street side from the average elevation of the finished grade within 20 feet of the structure to the highest point of the roof (see Appendix A).

Building, principal means the building or buildings on a lot which are occupied by the primary use (see Appendix A).

Caliper means diameter of the trunk measured one foot above average grade.

Car title loan business. An establishment that makes small consumer loans that leverage the equity of a car or other vehicle as collateral where the title to such vehicle is owned free and clear by the loan applicant and any existing liens on the car or vehicle cancel the application. Failure to repay the loan or make interest payments to extend the loan allows the lender to take possession of the car or vehicle.

Centerline means a line designated midway between the right-of-way lines of a street or alley. Where such lines are irregular, the centerline shall be determined by the administrator.

Certificate of occupancy means an official certificate issued by the city which indicates conformance with or an approved conditional waiver from this code and authorizes legal use of the premises for which it is issued.

Check cashing business. An establishment that provides one or more of the following:

a. An amount of money that is equal to the face of the check or the amount specified in the written authorization for an electronic transfer of money, less any fee charged for the transaction;

b. An agreement not to cash a check or execute an electronic transfer of money for a specified period of time; or

c. The cashing of checks, warrants, drafts, money orders, or other commercial paper for compensation by any person or entity for a fee.

Church means a building, whether situated within the city or not, in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

Circular driveway means a driveway with two points of access to a public street connected by a nonintersected arc or arcs and tangents along its outer edges, with no parking internally off the driveway. Entrance to a garage is permitted.

Collector, major means roadways which provide access to commercial properties and serve to distribute trips to or from the arterial street network.

Collector, minor means roadways which offer access to neighborhoods and connect to higher classes of the street system.

Comprehensive plan means a periodically updated series of council adopted documents and maps that unify all elements and aspects governing land uses, functions and services of the city. Based on careful analysis and projections, these volumes reflect the best judgement of the council, commission and staff to ensure the welfare and prosperity of the city. The plan shall service as a guide to zoning, subdivision and capital improvement development decisions.

Construction plans means the maps or construction drawings accompanying a subdivision plat that show the specific location and design of all required or proposed improvements to be installed in the subdivision.

Cul-de-sac means a local street with only one outlet having an appropriate terminal for the safe and convenient reversal of traffic movement.

Curb radius means the connection of the outer limits of a driveway and street intersection by means of a circular arc.

Day care center means any place, home or institution which cares for five or more children under the age of 16 years old apart from their parents, guardians, or custodians for regular periods of time for compensation; provided, however, that the term shall not apply to bonafide schools, custody fixed by a court, children related by blood or marriage within the third degree of the custodial persons, or churches and other religious or public institutions caring for children within an institutional building.

Density means a residential land use intensity measure expressed as the number of units per gross lot area. It is the number resulted from dividing the total number of dwelling units by the area of the platted lot.

Departure means that portion of a roadway or driveway within 300 feet of another intersecting street or driveway where the movement of traffic departs said intersection.

Development, mixed use means any property or building used partly for residential use and partly for institutional, business and/or office use.

Development schedule means a chronological estimate of the rate and order of development.

Development standards. See: Site development standards.

Dripline means the periphery of the area underneath a tree which would be encompassed by perpendicular lines dropped from the farthest edges of the crown of the tree.

Drinking establishment means an establishment where the primary activity is the sale and consumption on the premises of beer, ale, wine or alcoholic beverages and where the total quarterly calendar receipts for on-premise food sales is less than the total receipts for the same time period of beer, ale, wine and alcoholic beverages.

Driveway means a roadway that permits access between private land use(s) and public thoroughfares.

Driveway width means the width of the driveway measured between the termination of the curb

radii, at a point of tangency essentially perpendicular to the street.

Dwelling means a room or group or rooms which is arranged, occupied, or intended to be occupied as living quarters and includes facilities for food preparation and sleeping.

Dwelling, multifamily means any building which is designed, built, rented, leased or let to be occupied as two or more dwelling units or apartments, or which is occupied as a home or residence of two or more families (see Appendix A).

Dwelling, multifamily duplex means a detached building having two dwelling units on a single lot and occupied by not more than two families (see Appendix A).

Dwelling, single-family attached means a dwelling on a separately owned lot which is joined to another dwelling on one side by a party wall or abutting separate walls and occupied by not more than one family (see Appendix A).

Dwelling, single-family cluster means a single-family detached dwelling, situated on a smaller lot than the typical single-family dwelling and generally related to generous common open spaces (see Appendix A).

Dwelling, single-family detached means a dwelling designed for and occupied by not more than one family and having no roof, wall, or floor in common with any other dwelling (see Appendix A).

Dwelling, single-family manufactured means a transportable, manufactured detached single-family dwelling which is designed for year round occupancy and connected to utilities. Both modular and mobile housing which are designed with standard roofing and siding and sit on a permanent foundation are included in this definition (see: manufactured home).

Dwelling, single-family townhouse means a dwelling on a separately owned lot which is joined to another dwelling on one or more sides by a party wall or abutting separate walls and occupied by not more than one family (see Appendix A).

Dwelling, zero lot line means a single-family detached dwelling on a separately owned lot which is located in such a manner that one of the dwellings' sides (zero lot line wall) rest directly on a lot line (see Appendix A).

Easement means a grant of one or more of the property rights by the property owner to and/or for the use by public, a corporation, or another person or entity (see Appendix A).

Easement, access and egress means an easement dedicated for the purpose of providing a way or means of entering and exiting a property by use of vehicle or pedestrian means.

Easement, avigation means an easement dedicated for the purpose of protecting the air lanes around and adjacent to an airport, specifically the airport hazard areas as defined by FAR Part 77.

Easement, construction means an easement dedicated for the purpose of providing for the spatial requirements needed during the construction process. The effective date of said

construction easements shall be for the time period required to complete the specified construction, at such time it shall be terminated and will not constitute a permanent encumbrance to the property.

Easement, drainage means an easement dedicated for the purpose of permitting the placement of pipes, swales, channels, natural features and man-made improvements designed to carry stormwater drainage and to provide for the access to and maintenance of said facilities.

Easement, maintenance means an easement dedicated for the purpose of providing for the continuing maintenance of facilities, structures, or other items that require continual attention and attendance.

Easement, utility means an easement dedicated for the purpose of permitting the placement of electric, telephone, gas, cable television, water, wastewater, and other public utilities and to provide for the access to and maintenance of said facilities.

Eating establishment means an establishment where the primary activity is the sale and consumption of food and where beer, wine and alcoholic beverage service, if any, is incidental to the sale of food. Food service shall constitute not less than 51 percent of quarterly sales.

Eating establishment (drive-thru) means an eating establishment where food service is offered and served or delivered to customers in automobiles.

Eating establishment, (with music and entertainment) means an eating establishment which incidentally may offer music, entertainment and facilities for dancing patrons and so licensed by the city or state.

Entry turnaround means an esplanade opening or other accommodations providing for an entrance to a private street development in order to allow vehicles denied access to re-enter onto a public street with a forward motion without unduly disturbing other vehicles at the entrance.

Family means any number of individuals living together as a single housekeeping unit, in which not more than four individuals are unrelated by blood, marriage or adoption.

Federal aid primary highway means any highway system as established and maintained as a primary highway; including extensions of such systems within municipalities, which have been approved pursuant to Subsection B of Section 102 of Title 23, United States Code. (The following highways in the city meet this definition SH 121, SH 183, and SH 360.)

Floodplain means the channel and the relatively flat area adjoining the channel of a natural stream or river which has been or may be covered by floodwater.

Floodway means the channel of a natural stream or river and portions of the flood plain adjoining the channel, which are reasonably required to carry and discharge the floodwater or flood flow of any natural stream or river.

Floor area means the total square feet of floor space within the outside dimensions of a building including each floor level, but excluding basements, open and screened porches, and garages.

Floor area ratio (FAR) means a nonresidential land use intensity measure expressed as the ratio between the number of square feet of gross floor area within the buildings on a lot and the total square footage of land in the lot. It is the number resulting from dividing the floor area by the lot area (see Appendix A).

Frontage, freeway means a tract of land having a frontage adjacent to a federal aid primary highway or separated therefrom only by a service road.

Frontage, lot means the length of street frontage between property lines measured at the street right-of-way line (see Appendix A).

Frontage, street means the length of all property on one side of a street between two intersecting streets measured along the line of the street.

Gate, limited access means any device located on private property which controls or limits access to more than one residential unit or any nonresidential property.

Gate, private. See: Gate, limited access.

Gate, security. See: Gate, limited access.

Grandfathered means any lawfully existing circumstance that does not comply with the current ordinances, however, is allowed to continue for a specific duration.

Ground cover means low growing, dense spreading plants typically planted from containers.

High capacity/limited movement driveway means a driveway constructed with nonstandard design characteristics to meet the needs of greater driveway volumes and/or limitation of movements accessing or egressing the driveway.

Home occupation means any occupation or activity conducted within the walls of a dwelling unit and not visible or noticeable in any manner or form from outside the walls of the dwelling.

Hotel or motel means a building or group of buildings designed and occupied as a temporary dwelling place of individuals. To be classified as a hotel or motel, an establishment shall contain individual guest rooms or units and shall furnish customary hotel services such as linens, maid service, telephone, use and upkeep of furniture and the accommodations shall not be designed as permanent dwelling units.

Incidental use means a use that is supportive of the primary use and is normal to the usual operation of that use but is minor and secondary in nature.

Impervious coverage means that portion of a lot area which is covered by an impermeable surface, such as structures or paving, and thereby not allowing water penetration.

Internal storage means the length of driveway approach or departure that does not permit movement across the driveway approach or departure.

Landscaped area means an area which is covered by natural grass, ground cover, or other natural living plant materials.

Lawn grasses means thin blade surface growing plants typically planted from seed, sprigs or plugs.

Limited access residential development means a development designed for residential purposes that limits access to three or more residential lots or dwelling units by the use of a gate, security guard or other active means.

Lot means a parcel of land which has been established as a result of the platting process; and has been approved by the city and filed of record at the Tarrant County Plat Records (TCPR). Said lot may be occupied or intended to be occupied by a building and its accessory building and including such yards and other open spaces as are required under this document and having access to a dedicated street or other approved method of access and egress (see Appendix A).

Lot area means the total horizontal area within the lot lines of the lot.

Lot, corner means a lot or parcel of land abutting two or more streets at their intersection (see Appendix A).

Lot depth means the average horizontal distance between the front and rear lot lines (see Appendix A).

Lot, flag means a lot fronting on or abutting a public street and where access to the public street is by a narrow, private right-of-way (see Appendix A).

Lot, interior means a lot whose side lot lines do not abut upon any street (see Appendix A).

Lot, through also known as double-front lot, is a lot having frontage on two or more nonintersecting dedicated streets other than a corner lot. The actual front of the lot shall be considered that side on which the building set back line is located and in which the structure faces. The other lot line having street frontage shall be considered the rear yard line and shall comply with the required yard requirements, screening and fencing as deemed appropriate for rear property lines. Access to the lot via the rear frontage line shall not be permitted without approval of the city (see Appendix A).

Lot line means a line of record bounding a lot which divides one lot from another lot, a public or private street or any other public space (see Appendix A).

Lot line, front means the lot line separating a lot from a street right-of-way (see Appendix A).

Lot line, rear means a lot line which is opposite and most distant from the front lot line (see Appendix A).

Lot line, side means any lot line not a front or rear lot line. Where a lot has only three lot lines, those lot lines which do not front upon a street shall be deemed side lot lines (see Appendix A).

Lot orientation means the compass reading for a line drawn from a point midway between the side lot lines at the required front yard setback to a point midway between the side lot lines at the required rear yard setback.

Lot of record means a lot which is part of a subdivision plat which has been recorded in the office of the County Clerk of Tarrant County.

Main gates means the gate and entry way designed as the primary entrance for guests, residents, deliveries, employees, patrons, etc.

Manufactured home (HUD-code) means a structure, constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems.

Manufactured or mobile home rental community means a tract of land which is separated into two or more spaces or lots which are rented or leased or offered for rent or lease to persons for the installation of manufactured or mobile homes for use and occupancy as residences; provided that the lease or rental agreement is for a term of less than 60 months and contains no purchase option.

Manufactured or mobile home subdivision means a unified development of manufactured or mobile home sites on lots platted for such purposes, which lots may be sold to the owners of manufactured or mobile homes situated thereon, meeting all the requirements of applicable zoning and subdivision ordinances and designed to accommodate such homes on a permanent basis.

Median means a raised, curbed division between lanes of opposing traffic.

Mini-warehouses means a building or group of buildings in a controlled-access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled-access stalls or lockers for the dead storage of a customer's goods or wares. No outside storage, sales, service, or repair activities, other than the rental of dead storage units, shall be permitted on premises.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems.

Nonconforming structure means any building or structure that does not conform to the zoning district development standards and which lawfully existed prior to the adoption of the current zoning regulations by the city.

Nonconforming use means a use or activity on a parcel of land or portion thereof which was lawful prior to the adoption, revision, or amendment of the city codes; but, which fails, by reason of such adoption, revision or amendment to conform to the present requirements of the zoning district.

Non-depository financial institution. Any check cashing business, payday advance/loan business, or car title loan business as defined in this section. This definition excludes:

a. A state or federally chartered bank, savings and loan association or credit union, or pawnshop; and

b. A convenience store, supermarket, or other retail establishment where consumer retail sales constitute at least 75 percent of the total gross revenue generated on site.

Nudity or a state of nudity means a state of dress which fails to fully and opaquely cover the anus, genitals, pubic region, or perineum anal region, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the anus, genitals, pubic region, or perineum anal region, regardless of whether the nipple and areola of the human female breast are exposed.

One-way driveway means a driveway constructed to accommodate only one direction of traffic movement, either an entrance or exit.

Open space means an area included in any side, rear or front yard or any unoccupied space on a lot that is open and unobstructed to the sky except for the ordinary projections of cornices, eaves and plant material.

Owner means any person, group of persons, firm or firms, corporation or corporations, or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.

Outdoor storage means an unenclosed, open to the sky area which is used for either the temporary or permanent placement of goods, supplies or equipment.

Outdoor storage, temporary residential means portable, weather-resistant containers designed and used for the temporary storage or shipment of household goods, wares, building materials, merchandise, or yard waste may be permitted. This term shall also include roll-off containers or storage containers. (Example of a roll-off container: city yard waste and debris containers or open/unclosed containers.) See subsection 84-85(a) for definitions and conditions associated with the use of accessory buildings in residential districts.

Parcel. See: Lot.

Parkway means the area between the curb line or edge of pavement of a street and the nearest right-of-way line of such street.

Party driveway means a single way providing vehicular access to two adjoining properties (see Appendix A).

Party wall means a common shared wall between two separate structures, buildings, or dwelling units (see Appendix A).

Payday advance/loan business. An establishment that makes small consumer loans, usually backed by a postdated check or authorization to make an electronic debit against an existing financial account, where the check or debit is held for an agreed-upon term, or until a customer's next payday, and then cashed unless the customer repays the loan to reclaim such person's check. Such establishments may charge a flat fee or other service charge and/or a fee or interest rate on the size of the loan amount.

Performance standards means a set of criteria or limits relating to nuisance elements which a particular use or process may not exceed.

Permanent cosmetic makeup studio. An establishment where trained personnel apply micro-injections of pigment to the dermal layer of skin such that cosmetics are applied within the facial lines on a permanent basis. This includes, but is not limited to: permanent eyeliner, eye shadow, or lip color. This term does not include a tattoo and/or body modification studio.

Perpetual maintenance agreement means an agreement made in which the city is made a party and in which a developer or contractor agrees to provide appropriate maintenance operations as specified in the agreement for an unspecified period of time usually consisting of the lifetime or duration of an identified project.

Permanent community open space means parks, school playgrounds, community centers, golf courses, parkways, water areas or similar areas which are dedicated to the city or which are created as private open space under a permanent agreement for maintenance and responsibility and accepted by the council after recommendation by the city attorney.

Planned development means a district with development characterized by a unified site development plan which may provide for a mixture or combination of residential, business, office, recreational, and open space uses.

Plat means a scaled map that shows property boundaries, easements, dimensions, rights-of-way that encumber the property, and additional information as required by this chapter for the type of plat being prepared.

Plat, final means a legally binding instrument prepared by a licensed public surveyor in conformance with the approved preliminary plat and complying with the regulations outlined in this document and applicable state statutes which, if approved by the planning and zoning commission and city council may be submitted to the county clerk for recording.

Plat, preliminary means a plat, being prerequisite to the final plat and indicating the proposed layout of the development, which if approved by the proper review authority in accordance with the regulations outlined in this document, constitutes authorization to proceed with the final platting upon approval.

Plat, sketch means a rough sketch map of a proposed subdivision or site plan of sufficient accuracy to be used for the purpose of discussion and classification.

Premises. See: Lot.

Primary emergency access means the drive or access point designed as the primary point of ingress/egress for emergency vehicles.

Private street developments means any development that contains a group of lots that have no frontage on publicly dedicated streets and are accessible by way of a private street or access easement.

Property owners association means a co-op or an association of owners organized for the purpose of owning, maintaining, administering and operating common facilities such as clubhouses, swimming pools and private streets, and to enhance and protect their common interests.

Public hearing means a meeting held prior to a specific action to allow the public an opportunity to receive information and to provide input. The meeting shall be conducted in accordance with proper procedure as stipulated by state and local laws regarding notification and due process.

Public improvements means any improvement, facility or service together with its associated easements, sites, or rights-of-way dedicated for public use, which is necessary to provide transportation, drainage, public utilities, emergency services, energy or similar essential services.

Public notice means the advertisement of a public hearing, as stipulated by state and local laws, in a paper of general circulation in the area, and through other media sources, indicating the time, place and nature of the public hearing.

Replat means a change in an approved or recorded subdivision plat if such change affects any street layout or area reserved thereon for public use, or any lot line.

Return frequency storm means the probability that a given rainfall intensity will occur in any one given year.

Roll-down curb means also known as lay-down curb, a curb that by its construction has a slope of face such that it facilitates driving vehicles over the curb. Construction of roll-down curbs shall be in compliance with the standards as provided by the director of public works.

Rooming and boarding houses means an establishment, other than eleemosynary or other nonprofit institution, primarily engaged in renting rooms, with or without board, on a fee basis, to four or more persons not related by blood, marriage, or adoption.

Secondary emergency access means a drive or access point designed as a secondary or back-up means of ingress/egress for emergency vehicles.

Semi-nude or semi-nudity or state of semi-nudity means the exposure of the post puberty female nipple or areola, or the exposure of any device, costume or covering that gives the realistic appearance of or simulates the post puberty female nipple or areola, so long as the following anatomical areas of an individual are fully and opaquely covered: the anus, genitals,

pubic region and the perineum anal region of the human body. The term “semi-nude” shall not apply to an individual exposing a post puberty female nipple or areola in the process of breastfeeding a child under that person’s care.

Senior citizens-Assisted living means multifamily housing for seniors (55 or more years of age) in a variety of residential settings engaged in providing a range of residential and personal care services, such as assistance with medications and daily activities such as bathing and dressing, with on-site nursing care services.

Senior housing-Apartments means multifamily housing in a variety of residential settings for seniors (55 or more years of age) who live independently, but desire residential and personal care services without on-site nursing care facilities.

Setback means the distance between the lot line and the building line (see Appendix A).

Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion-picture theater, escort agency, nude model studio, or other commercial enterprise for which the regular offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer constitutes 25 percent or more of the items in inventory and/or floor space of the sexually oriented business. The term shall also mean any commercial enterprise that self-identifies as an adult arcade, adult bookstore, adult video store, adult cabaret, adult motel, adult motion-picture theater, escort agency or nude model studio, regardless of whether the percentage of items in inventory and/or floor space constitute 25 percent or more of the total items in inventory and/or floor space.

Shopping center means a group of commercial establishments which are planned, developed, and managed as a unit related in its location, size and type of shops to the trade area that the unit serves.

Shrubs means plants which grow vertically in a multi-branched pattern.

Sign means any structure or part thereof, or any device attached to, painted on, or represented on a building, fence or other structure, upon which is displayed or included any letter, word, mode, banner, flag, permanent insignia, decoration, device, logo, design or representation used as, or which is in the nature of, an announcement, direction, advertisement or other attention getting device. See article IV of this chapter for specific sign definitions.

Site development standards means regulations controlling maximum density, height and impervious coverage; and minimum lot area and width, yard setbacks and floor area.

Spread of water means the quantity of stormwater that is allowed to collect in the streets before being intercepted by a storm drainage system.

Standard driveway means a single, undivided driveway opening providing for both entrance and exit traffic movements with horizontal characteristics of width and radii as determined by this chapter.

Storm. See: Return frequency storm.

Story means that portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between such floor and the ceiling next above it (see Appendix A).

Street, private means any vehicular access way under private ownership and maintenance, that has not been dedicated to and accepted by the city.

Street, public means any thoroughfare other than an alley which has been dedicated to the public for public use and has been accepted by the city and which affords primary access to abutting property.

Street line. See: Frontage, lot.

Structure means any man-made item constructed or erected, which requires location on the ground, or attached to something having a location on the ground; including, but not limited to, buildings, communications towers, signs and swimming pools, and excluding utility poles, parking lots, fences and retaining walls.

Structure, temporary means a building, not to exceed 500 square feet, used as a sales or construction management office, associated with an active development on platted property, and may only be allowed if a building permit has been issued for permanent construction on said property, or an application therefor has been submitted and is under review. A HUD-Code manufactured home may be used as a temporary structure, provided it meets all other requirements of this section.

Subdivider means any person who, having an interest in land, causes it, directly or indirectly, to be divided into a subdivision.

Subdivision (or platting) means the division of a lot, tract or parcel of land into two or more lots, tracts, parcels or other divisions of land for sale, development or lease.

Tattoo and/or body modification studio. An establishment where licensed personnel apply an indelible mark or figure to the human body by scarring, branding, body piercing any part of the human body with the exception of piercing the ear or the practice of acupuncture, or inserting a pigment under the skin using needles, scalpels or other related equipment in accordance with Chapter 146 of the Texas Health and Safety Code. A tattoo and/or body modification studio may include a permanent cosmetic makeup studio provided it is an accessory use to the tattoo and/or body modification studio and meets state licensing requirements for both a tattoo and/or body modification studio and a permanent cosmetic makeup studio.

Time of concentration means a measurement used in the design of storm drainage facilities which represents the longest time that will be required for a drop of water to flow from the upper limit of the drainage area to the point of concentration.

Tobacco products store. A retail establishment that is dedicated, in whole or in part, to the smoking of tobacco or other substances and includes any establishment that allows either the payment of consideration by a customer to the establishment for on-site delivery of tobacco, tobacco accessories or similar substances and products to the customer; and, the onsite

smoking of tobacco or other substances. This definition shall be construed to include establishments known variously as retail tobacco stores, tobacco products shops, hookah cafes, tobacco clubs, tobacco bars, and similar establishments, but shall not include an establishment which derives more than 50 percent of its gross revenue from food, beverage, or gasoline fuel sales.

Trailer or mobile home park means a tract of land used to accommodate single-family manufactured dwellings as a place of residence. Such may be either a manufactured home rental community or subdivision.

Tree means a tree shall be defined and will qualify as such if either of the following are met:

(1) A woody plant having one well defined stem or trunk and a more or less definitely formed crown, and usually attaining a mature height of at least 15 feet.

(2) A plant listed as a tree in “Arboriculture. Care of Trees, Shrubs & Vines in the Landscape,” by Richard W. Harris, 1983. Prentice-Hall, Inc., Englewood Cliffs, New Jersey.

Use means the purpose or activity for which land or a building is designed, arranged or intended or for which land or a building is or may be occupied or maintained.

Use, primary means the specific principal purpose for which land is used.

Use, temporary means a use which is established for a fixed period of time with the intent to discontinue such use upon the expiration of such time. Such uses do not involve the construction or alteration of any permanent structure.

Variance means a deviation from the literal provisions of the zoning or platting regulations, as established in this code, which is granted by the zoning board of adjustment or city council, when strict conformity to the code would cause an unnecessary hardship because of circumstances unique to the property on which the variance is granted.

Yard means an open space, other than a court, between a building and the adjoining lots lines, unoccupied and unobstructed from the ground upward except as otherwise provided herein (see Appendix A).

Yard, front means a yard extending across the front of the lot between side lot lines and having a minimum horizontal depth measured from the front lot line as specified for the district in which the lot is located. On corner lots, the yard containing the designated primary entrance and on which the house address is listed shall be considered the front yard (see Appendix A).

Yard, rear means a yard extending across the rear of the lot between side lot lines and having a minimum horizontal depth measured from the rear lot line as specified for the district in which the lot is located. Where such yard abuts an alley, the depth of the rear yard may be measured from the center line of the alley. On corner lots, the rear yard shall be considered as parallel to the street upon which the lot has its least dimensions. On both corner and interior lots, the rear yard shall in all cases be at the opposite end of the lot from the front yard (see Appendix A).

Yard, street means the lot area which lies between the street right-of-way and the actual front wall line of the building and as imaginatively extended from the outward corners of the building, parallel to the street to the side lot lines. Steps and unenclosed porches shall be excluded, but such wall line shall include any irregular building indentations.

On corner lots, the street yard shall consist of all lot area between both streets and their corresponding actual front building wall lines, as such lines are imaginatively extended in the manner described above.

When there are multiple buildings on a lot, the street yard shall consist of all the area between the street right-of-way and any imaginary line beginning at one side of the lot, running parallel to the street, connecting to the foremost corner of the building wall fronting the street and nearest such side lot line, then following and connecting the foremost walls of all buildings fronting the street, and then extending parallel to the street side lot line. If a building has a rounded front, the front building wall corners shall be the points closest to the side boundaries. Isolated buildings (i.e., fast food restaurants in a shopping center, photo processing drop-offs, bank drive throughs, etc.) shall not be considered in delineating street yards. On land used only for off-street parking purposes, the street yard shall consist of the entire lot (see Appendix A).

(c) Amendments to definitions. Amendments to the definitions in this section, or additional definitions to be added to this section, may be made by the city council after conducting a public hearing and receiving the recommendations and report of the planning and zoning commission on such amendments or additions.

(Ord. No. 1133, § 1(1-700), 3-22-94; Ord. No. 1177, § I, 5-23-95; Ord. No. 1445, §§ 1-4, 9-26-00; Ord. No. 1535, § 5, 6-25-02; Ord. No. 1692, § I, 5-31-05; Ord. No. 1708, § I, 9-27-05; Ord. No. 1806, § 1, 2-26-08; Ord. No. 1847, § 1, 4-28-09; Ord. No. 1977, § 1, 11-13-12; Ord. No. 1978, § 1, 11-13-12; Ord. No. 1976, § 1, 11-27-12)

Secs. 84-8–84-19 Reserved

ARTICLE II. ADMINISTRATION

Sec. 84-20 Enforcement

The provisions of the unified development control document shall be administered, interpreted and enforced by the city manager or his designee.

(Ord. No. 1133, § 1(2-100), 3-22-94)

Sec. 84-21 Compliance required

All land, buildings, structures or appurtenances thereon located within the city which are hereafter occupied, used, erected, altered or converted shall be used, placed and erected in conformance with the regulations prescribed herein. Land used in meeting the requirements of this document with respect to a particular use or building shall not be used to meet the requirements for any other use or building. No approval, authorization to proceed, or issuance of any certificate or permit shall be construed as an approval of a violation of the provisions of

this document or of other ordinances of the City of Euless. Certificates presuming to give authority to violate or cancel the provisions of this document or of other ordinances of the jurisdiction shall not be valid.

(Ord. No. 1133, § 1(2-101), 3-22-94)

Sec. 84-22 Certificate of occupancy required

(a) Certificate required prior to occupancy. No building, or portion thereof, or parcel of land shall be used or changed in use until a certificate of occupancy shall have been issued by the city. Failure to comply with the provisions of this document shall result in the issuance of a citation and/or constitute a basis to deny or disconnect city utilities or to require private utility companies to do likewise.

(b) Connection to utilities. A certificate of occupancy shall be applied for and issued before occupancy and connection of utilities to such building, provided such construction or change has been made in complete conformity to the provisions of this document and other laws.

(1) Temporary connection of utilities may be authorized by the administrator for the purpose of clean up, construction or other such purposes. Temporary connection of any utility shall be for a specified duration not to exceed 60 days and shall not be used for temporary occupancy.

(c) Records. A record of all certificates of occupancy shall be maintained on file in the city and copies shall be furnished for a fee on written request to any person.

(d) Contents of a certificate of occupancy. An application for a certificate of occupancy shall at a minimum contain the following information: Business name, business address, business phone number, type of use, business owner, business owner's address, business owner's phone number and emergency phone number, applicant's driver's license number, applicant's date of birth, and applicant's signature.

(e) Fee. A fee sufficient to recover administrative cost and cost for inspecting for compliance will be assessed in accordance with city fee ordinance.

(f) Other requirements. Requirements applicable to specific land uses and on-site situations are listed as follows:

(1) Applicable land use districts. A current certificate of occupancy is required on all land, buildings, or portions thereof that are not designated as being located within a one- or two-family dwelling use.

(2) Display of certificate of occupancy. A certificate of occupancy is required to be clearly displayed on the site and in a conspicuous place.

(3) Certificate of occupancy kept current. A certificate of occupancy is required to be kept current reflecting any change of address, name changes, changes in ownership, or other pertinent information listed on the certificate.

(Ord. No. 1133, § 1(2-102), 3-22-94)

Sec. 84-23 Project under construction at time of chapter adoption

Nothing herein contained shall require any change in the plans, construction or designated use of a building actually under construction within the city on the effective date of this document and which entire building shall be completed within one year from the effective date of the document or which building shall be maintained under continuous construction even though not completed within one year. Nothing herein contained shall require any change in plan, construction or designated use of a building for which a building permit has been heretofore issued while such permit is valid and provided the building shall have been started within 180 days of the date of issuance of the permit and which entire building shall be maintained under continuous construction even though not completed within one year.

(Ord. No. 1133, § 1(2-103), 3-22-94)

Sec. 84-24 Compliance with chapter required for building permits and/or utility service

No building or construction of a building or structure upon any tract, parcel or premise shall commence, and public utilities shall not be extended or connected to a building or structure unless the lot, tract, parcel or premise is in accordance with all the provisions and requirements of this unified development control document (chapter) and all applicable building permits and authorizations to proceed are first obtained.

(Ord. No. 1133, § 1(2-104), 3-22-94)

Sec. 84-25 Violations and penalties

Any person, firm, corporation or entity that violates or assists in the violation of any of the provisions of this document or fails to comply with any of the requirements thereof, or who shall build or alter any building or use in violation of any plan or permit submitted and approved hereunder, shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of up to $2,000.00 for each violation. Each day a violation exists shall constitute a separate violation or offense. In order to enforce the provisions of the unified development control document, the city attorney is also authorized to institute any civil action in the appropriate court upon the prior approval of the city manager.

(Ord. No. 1133, § 1(2-105), 3-22-94)

Sec. 84-26 Platting regulations; general

(a) Authority.

(1) In addition to its other responsibilities, the Planning and Zoning Commission of the City of Euless (hereinafter “commission”) is vested with the authority to review, approve, conditionally approve and disapprove applications for the platting or subdivision of land, including land plans, conveyance plats, preliminary plats, final plats, amended plats, replats, and vacations of plats.

(2) The administrator is vested with the authority to approve minor plats (see section 84-405(a)(1)). The administrator may, for any reason, elect to present a minor plat to the planning and zoning commission for approval. The administrator may not disapprove a minor plat and shall refer any minor plat refused for approval to the planning and zoning commission within 30 days of the official date of application.

(b) Variances, exceptions, and appeals to platting. The city council shall have the ultimate power to grant or reject variances or special exceptions to platting regulations which consist of articles IX, X, XI and XII of this chapter.

(1) Findings of extraordinary hardships or practical difficulties. Where the city council finds that extraordinary hardships or practical difficulties may result from strict compliance with the platting regulations or that the public interest may be better serviced by an alternative proposal, the council may approve a variance or special exception to the platting regulations of this chapter.

(2) Grounds for variances or special exceptions. The city council shall not authorize variances or special exceptions unless it shall make findings based on the evidence presented to it in each specific case that:

a. The granting of the variance or special exception will not be detrimental to the public safety, health, or welfare or injurious to other property;

b. The conditions upon which the request for a variance or special exception is based are unique to the property for which the request is sought and are not applicable generally to other property;

c. Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict terms of these regulations are enforced;

d. The variance will not in any significant way vary the provisions of this chapter, zoning map, or comprehensive master plan.

(3) Petition requirement. A petition for any such variance shall be submitted in writing by the applicant at the time when the preliminary plat is filed for consideration. The petitioner shall state fully the grounds for the variance and all the facts to be relied upon in reaching a decision.

(c) Burden of proof. The applicant shall have the burden of proving to the city council that the conditions supporting the allowance of a variance or special exception, as may apply and are set out in this section have been met.

(Ord. No. 1133, § 1(2-200), 3-22-94)

Sec. 84-27 Variance, exceptions and appeals for zoning

A procedure is established in this section that allows the applicants and property owners within

the corporate limits of Euless an opportunity to appeal and vary the zoning regulations provided herein. However, all variances, exceptions and appeals to zoning issues must be obtained in accordance with the procedures defined in this section.

(1) Authority. This subsection defines the bodies that have authority over variations, changes, and adjustments to the zoning process of the city. The state has defined and legislated definite regulations and procedures regarding any variances to the adopted zoning ordinances of the city. Variances to zoning, which include article III, article IV, article V, article VI, article VII and article VIII of this unified development control document, are decided in a different manner than variances to the platting process. In fact the word "variance" implies different implications in the zoning process than it does in the platting process. The zoning board of adjustments, as described in this article, has been authorized by state statutes to hear and act on variances to the zoning ordinances of the city.

(2) Burden of proof. The applicant shall have the burden of proving to the board of adjustment that the conditions supporting the allowance of a variance or special exceptions, as may apply and are set out in this section, have been met.

(3) Conditions. The board or city council, as may apply, is empowered to impose upon any variance or special exception any condition reasonably necessary to protect the public interest and community welfare.

(4) Creation of zoning board of adjustment. There is hereby created a board of adjustment to hear and decide requests for variances, exceptions and appeals to article III, article IV, article V, article VI, article VII and article VIII of this unified development control document.

a. Board members. The board shall consist of five regular members and two alternate members who are residents of the city, each to be appointed by order of the council for a term of two years and removable for cause by the council upon written charges and after public hearing.

b. Vacancies. The city council shall appoint all members of the zoning board of adjustment and shall fill vacancies for the unexpired term of any member whose place becomes vacant for any cause in the same manner as the original appointment was made.

c. Quorum. All cases to be heard by the board shall always be heard by a minimum of four members. Alternate members may participate in the discussion of any case before the board, however, shall not vote except in the absence of one or more regular members. Should one regular member be absent, then alternate one shall have right to vote. Should one regular member and alternate one or two or more regular members be absent, then alternate two shall have the right to vote.

d. Required vote. The concurring vote of four members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the application on any zoning

matter upon which it is required to pass under this code or to effect any zoning variance in such code.

(5) Procedures of the board. The board shall adopt rules to govern its proceedings provided, however, that such rules are not inconsistent with this chapter or state law.

a. Called meetings. Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair, or in his or her absence, the acting chair, may administer oath and compel the attendance of witnesses.

b. Public record. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep record of its examinations and other official actions, all of which shall be immediately filed in the office of the administrator and shall be of public record.

(6) Appeal procedures. Appeals to the board may be taken by any person aggrieved or by any officer, department, or board of the city affected by any decision of the administrator.

a. Filing appeal. Such appeal shall be taken within 15 days after the decision has been rendered by the administrator, by filing with the administrator from whom the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The administrator from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the records upon which the action appealed from was taken.

(7) Effect of appeal. The appeal stays all proceedings unless the administrative officer whose decision has been appealed certifies after notice of appeal that a stay would, in his opinion, cause imminent peril to life or property. If this statement is filed, then the administrative proceedings can be stayed only by a restraining order granted by the board or by a court. Such a stay will require an application, notice to the administrative officer, and showing of due cause.

(8) Rehearing of appeals. Any person aggrieved, any officer, department, or board of the city, who has made proper application and has received action by the board regarding that application, may have that application reheard again before the board. However, such rehearing shall be in accordance with the following conditions:

a. Time limitation. No appeal to the board for the same or related variance or exception on the same piece of property shall be allowed prior to the expiration of six months from the previous ruling of the board unless conditions relative to other property in the immediate vicinity, within the said six months period, have been changed or acted on by the board or council so as to alter the facts and conditions on which the previous board action was based.

b. Change of circumstance. Such change of circumstances shall permit the rehearing of an appeal by the board, prior to the expiration of the six months

period. However, such conditions shall in no way have any force in law to compel the board, after a hearing to grant a subsequent appeal. Such subsequent appeal shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the appeal is brought.

(9) Hearing procedures. The board shall conduct a public hearing so that any interested party may appear in person or by agent or by attorney to voice opposition or support of any application.

a. Building permit or certificate of occupancy. Any special exception or variance granted or authorized by the board under the provisions of this chapter shall authorize the issuance of a building permit or a certificate of occupancy, as the case may be, for a period of 90 days from the date of the favorable action of the board, unless said board shall have in its action approved a longer period of time and has so shown such specific longer period of time in the minutes of its action.

b. Expiration of building permit or certificate of occupancy. If the building permit and/or certificate of occupancy shall not have been applied for within said 90-day period or such extended period as the board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. Such termination and waiver shall be without prejudice to a subsequent appeal and such subsequent appeal shall be subject to the same regulation and requirement for hearing as herein specified for the original appeal.

(10) Specific powers of the board of adjustment. The board of adjustment shall have the following specific powers:

a. Hear and decide appeals. The board shall hear and decide appeals when it is alleged there is an error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this chapter. The board must find the following in order to grant an appeal:

1. That there is a reasonable difference of interpretation as to the specific intent of the zoning regulations or zoning map;

2. That the resulting interpretation will not grant a special privilege to one property inconsistent with other properties or uses similarly situated;

3. The decision of the board must be such as will be in the best interest of the community and consistent with the spirit and intent of the city's zoning laws.

b. Hear and decide special exceptions. The board shall hear and decide special exceptions to the terms of this chapter. The term "special exception" shall mean a deviation from the requirements of the zoning regulations herein established in this chapter. Special exceptions shall be granted only in the following instances, and then only when the board finds that such special

exceptions will not adversely affect the value and use of adjacent or neighboring property or be contrary to the public interest:

1. To approve the use of a lot or lots in a single-family residential district contiguous to (even if separated by a street or alley) a multifamily, business, office or manufacturing district for off-street parking of vehicles, subject to such standards and safeguards as are appropriate, for the protection of adjacent residential uses;

2. Require the vacation and demolition of a nonconforming structure which is deemed to be obsolete, dilapidated or substandard;

3. Permit the reconstruction of a nonconforming structure or building on the lot or tract occupied by such building, provided such reconstruction does not, in the judgment of the board, prevent the return of such property to a conforming use or increase the nonconformity of a nonconforming structure and provided that such actions conform to the provisions of the chapter;

4. Initiate on its motion or cause presented by interested property owners action to bring about discontinuance of a nonconforming use in accordance with the appropriate provisions of the chapter;

5. Require the discontinuance of a nonconforming use under any plan whereby full value of the structure can be amortized within a definite period of time, taking into consideration the general character of the neighborhood and the necessity of all property to conform to the regulations of the chapter;

6. Permit the enlargement of or change in occupancy of a nonconforming use to another nonconforming use in accordance with the appropriate provisions of the chapter.

c. Authorize variances. The board may authorize, upon appeal in the specific cases, variances from the terms of this chapter. Such variances shall not be contrary to the public interest and shall be such that substantial justice shall be done. Except as otherwise prohibited in this document hereof, the board is empowered to authorize a variance from a requirement of this document when the board finds that all of the following conditions have been met:

1. That the granting of the variance will not be contrary to the public interest;

2. That literal enforcement of this chapter will result in unnecessary hardship because of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation or physical condition unique to the specific piece of property in question. “Unnecessary hardship” shall mean physical hardship relating to the property itself as distinguished from hardship relating to convenience, financial considerations or caprice, and applicant or property owner’s own actions;

3. That by granting the variance, the spirit of this chapter will be observed and substantial justice will be done.

(11) Revocation or modification. A variance or special exception may be revoked or modified for any of the following reasons:

a. 1. That the variance or special exception was obtained or extended by fraud or deception;

2. That one or more of the conditions imposed by the board in granting such variance or special exception has not been complied with or has been violated;

3. That the variance or special exception, although granted in accordance with all requirements hereof, has caused a nuisance or is otherwise detrimental to public health, safety and welfare.

b. Revocation or modification of previously granted variance or special exception. An action to revoke or modify a previously granted variance or special exception may be initiated by order of the city council, the city manager, any member of the board, or the person who obtained the variance or special exception.

c. Hearing of request. The board shall hear a request for the revocation or modification of a variance or special exception in accordance with the same notification and hearing procedures established for original variances and special exceptions.

(12) Notice of board hearings. The board shall hold a public hearing on all appeals made to it. Written notice of such public hearing shall be sent to the applicant and all owners of real property, as the ownership appears on the approved city tax roll, lying within the city limits of the City of Euless and within 200 feet of the property, regardless of public rights-of-way and/or easements, on which the appeal is made (see Appendix A). Such notice shall be given not less than ten days prior to the date set for hearing. Such notice may be served by depositing the same properly addressed and postage paid in the United States Post Office. Notice shall also be given by publishing same in the official publication of the city at least ten days prior to the date set for hearing. Such notice shall state the time and place of such hearing.

(Ord. No. 1133, § 1(2-300), 3-22-94)

Sec. 84-28 Amending the unified development control document

The unified development control document may be amended by action taken by the city council. The procedures for amending both the platting and zoning regulations are provided in this section.

(1) Amending the platting and related public improvements regulations. Amendments to the platting and related public improvement regulations shall be subject to the standard rules, regulations and procedural requirements for amending the city Code.

(2) Amending the zoning regulations. Amendments to the zoning text and map are defined very clearly by state law and differ from the normal process of amendments to the city Code. The process and requirements of zoning amendments are provided as follows:

a. Procedures for amendments. Any person, corporation or group of persons having a proprietary interest in any property, upon proof of such interest, may petition the council for a change or amendment to the relevant provisions of the unified development control document or the commission may, on its own motion, institute proposals for change and amendment in the public interest. All petitions for the amendment of the zoning regulations of this document shall be on a form prepared and provided by the city and shall bear the signature of the owners of all property within the area of request.

b. Commission hearings for zoning changes that affect specific property. These changes usually constitute changes to property boundaries as designated on the zoning map. The commission shall hold a public hearing, prior to making its recommendation to the council, on any application for an amendment, supplement or change to the zoning map or text of this chapter, which affects specific property. Written notice of all public hearings for a district boundary change shall be sent to all owners of real property lying within the city limits of Euless and within a radius of 200 feet of the property (including any public rights-of-way) on which the change is requested.

Such notice shall be given not less than ten days prior to the date set for the hearing by depositing a notice properly addressed and postage paid in the United States Post Office to such property owners as the ownership appears on the last approved city tax roll.

c. Commission hearings for zoning changes that do not affect specific property. These changes are usually associated with textual changes. When any proposed amendment, supplement, or change of zoning map or text of this chapter does not affect specific property, notice of public hearing of the planning and zoning commission shall be given by publication in a newspaper of general circulation in the city without the necessity of notifying property owners by mail. Such notice shall state the time and place of such hearing and the nature of the subject to be considered. Such notice shall be published not less than ten days prior to the public hearing.

d. Filing and fees. Each and every application for an amendment as provided in this section shall be filed with the administrator prior to being presented to council, and shall be accompanied by a filing fee in an amount as shall from time to time be set by the council, and payable to the city.

e. City initiated changes. The city council may, from time to time, amend,

supplement or change by ordinance the boundaries of the districts or the text of the regulations herein. Before taking action on any such amendment, supplement or change, the council shall submit same to the commission for its recommendation.

f. Council hearings. A public hearing shall be held by the council prior to adopting any proposed amendment, supplement or change to these regulations. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation within the city.

g. Amendment under protest. If a proposed amendment, supplement or change to a zoning district boundary has been recommended to be denied by the commission, or if a written protest against such proposed changes has been filed with the city, duly signed and acknowledged by the owners of 20 percent or more of either the area included within such proposed change or the area within the city limits of Euless and within a radius of 200 feet of the proposed change, including public rights-of-way, such change shall not become effective except by a three-fourths vote of the city council.

h. Standards for amendments. In reviewing applications for district amendments, the commission and council shall consider the following factors:

1. Whether the proposed change would be contrary to the comprehensive general future land use plan;

2. The suitability or unsuitability of the property as presently zoned and/or developed;

3. The possible creation of an isolated district unrelated to adjacent and nearby districts;

4. The population density pattern and possible increase or overtaxing of the load on public facilities such as schools, utilities, or streets;

5. Whether existing district boundaries are illogically drawn in relation to existing conditions on the property proposed for change;

6. Whether changed or changing conditions make the passage of the proposed amendment necessary;

7. Whether the proposed change will adversely influence living conditions in the neighborhood;

8. Whether the proposed change will create or excessively increase traffic congestion or otherwise affect public safety;

9. Whether the proposed change will create a drainage problem;

10. Whether the proposed change will seriously reduce light and air to

adjacent areas;

11. Whether the proposed change will adversely affect property values in adjacent areas;

12. Whether the proposed change will be a deterrent to the improvement or development of adjacent property in accordance with existing regulations;

13. Whether the proposed change will constitute a grant of special privilege to an individual owner as contrasted with the public welfare;

14. Whether there are substantial reasons why the property cannot be used in accord with zoning; and

15. Whether the change suggested is out of scale with the needs of the neighborhood or the community.

(Ord. No. 1133, § 1(2-400), 3-22-94)

Secs. 84-29–84-49 Reserved

ARTICLE III. NONCONFORMANCE

Sec. 84-50 Purpose and intent

It is the purpose of this article that nonconforming uses and structures shall be eventually discontinued and the use of such premises shall be required to conform to the regulations prescribed herein having due regard for the investment in such nonconforming use.

Except as hereinafter provided, no nonconforming use of land or building, nor any nonconforming structure shall be enlarged, changed, altered, or repaired, except in conformity with the following regulations.

(Ord. No. 1133, § 1(3-100), 3-22-94)

Sec. 84-51 Types of nonconformity

(a) Nonconformity of use. Any use of land or building which does not conform to the permitted use regulations prescribed in this chapter shall be deemed to be a nonconforming use.

(b) Nonconformity of structure or building. Any building or structure which does not conform to the lot area, yard setback, impervious coverage, height, parking, loading, screening, access or other site development standards prescribed in this chapter shall be deemed to be a nonconforming structure.

(Ord. No. 1133, § 1(3-200), 3-22-94)

Sec. 84-52 Recognition of nonconformity

(a) A nonconforming status under the provisions of this chapter shall exist under the following circumstances:

(1) Pre-existing to chapter. (A nonconformity shall exist) when a use or structure which does not conform to the regulations prescribed for the district in which such use or structure is located, was in existence and lawfully constructed, located and operating on the effective date of this chapter and has since been in regular and continuous use.

(2) Pre-existing at annexation. (A nonconformity shall exist) when a use or structure, which does not conform to the regulations prescribed in the district in which such use or structure is located, was in existence and lawfully constructed, located and operated at the time of annexation to the city and has since been in regular and continuous use.

(b) Right-of-way acquisition by governmental agency.

(1) Definitions. As used in this subsection, the following terms shall have the respective meanings ascribed to them:

a. Building official shall mean the building official of the City of Euless, Texas or his designee.

b. City manager shall mean the city manager of the City of Euless, Texas or his designee.

c. Damages to the remainder shall mean the diminution or reduction of value of the remainder property suffered as a result of the acquisition of portion of a property for public right-of-way.

d. Governmental agency shall mean the United States of America, State of Texas, County of Tarrant, City of Euless, or any other governmental agency with the power to acquire property through the exercise of eminent domain under federal or state laws.

e. Right-of-way acquisition shall mean the securing of right-of-way through negotiation, purchase, bargain, trade, donation, eminent domain, or other means but not including the dedication of right-of-way through the platting or zoning processes.

(2) Exemption from nonconforming status.

a. Except as otherwise provided in this section, in the event a right-of-way acquisition by a governmental agency causes a property or its existing improvements to be in violation of then existing development provisions of this chapter, the city manager is authorized to exempt the property from the provisions of this chapter to the extent the violation is caused by the right-of-way acquisition, subject to the provisions set forth in this section. Upon

approval of such exemption, the property shall be considered to be in conformity with the development regulations of this chapter and shall not be subject to the provisions of this article regarding registration, termination, changing or other limitations on nonconforming uses.

b. The owner of property eligible for exemption under this subsection may apply to the city manager for approval of an exemption. The city manager may grant an exemption, in whole or in part, from the requirements of otherwise applicable development regulations, after taking into consideration the following factors:

1. Whether the benefits to the public from exempting the property from the development regulations outweigh any adverse effects that might be caused by noncompliance with such regulations;

2. Whether the exemption will cause the property to be inadequately served by utilities, road access, drainage and other necessary supporting facilities;

3. Whether the location and arrangement of all public and private streets, driveways, parking spaces, entrances and exits provide for a safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or the use of adjacent properties;

4. Whether the approval of the exemption will impede the normal and orderly development and improvement of neighboring vacant property;

5. Whether the use of the property will be compatible with and not injurious to the use and enjoyment of neighboring property, nor significantly diminish or impair property values within the vicinity;

6. Whether there is sufficient landscaping and screening to ensure harmony and compatibility with adjacent properties;

7. Whether the property remaining after the right-of-way acquisition is reasonably configured to allow compliance with the applicable development regulations that are not covered by the exemption;

8. Whether the owner of the property has made reasonable efforts to meet the development standards applicable to the property;

9. Whether the cost to bring the property into compliance would be unreasonable compared to the benefits that would be gained from doing so.

c. In approving an exemption under this subsection, the city manager may place reasonable terms, conditions, or limitations on the exemption as deemed necessary to protect the public health, safety or welfare or that otherwise limit the adverse impact of the property. The city manager may revoke an

exemption if he determines that the property fails or has ceased to be in compliance with any terms, conditions or limitations that are placed on the exemption.

d. In granting an exemption under this subsection, the city manager may authorize the relocation of existing signs that were in compliance with city sign regulations prior to the acquisition of the right-of-way but are required to be moved because of their location within the acquired right-of-way. The city manager shall determine a location on the property for the relocation of the signs that minimizes the impact of the signs on traffic safety, aesthetics, and the use and enjoyment of adjacent properties.

e. Property shall not be eligible for exemption under the following circumstances:

1. Zoning change. An exemption shall not be valid on property that undergoes a zoning change initiated by the property owner subsequent to the right-of-way acquisition; instead, the property shall have a nonconforming status to the extent that any nonconformance with city ordinances resulted from a right-of-way acquisition by a governmental agency prior to the rezoning, and shall be treated as a nonconforming use or structure pursuant to the provisions of this article. A zoning change initiated by the city shall not cause property to lose the exemption provided by this subsection.

2. Compensation for noncompliance. The exemption shall not apply to property if the right-of-way acquisition is determined to render the remainder of the property unusable pursuant to agreement with the governmental agency or judicial determination, and the governmental agency compensates the property owner for the damage to the remainder. Where such compensation is provided, the property owner is responsible for any curative measures necessary to bring the property into compliance with the development regulations of this chapter.

3. Safety hazard. An exemption shall not be granted to any development regulation if doing so would create a traffic safety hazard or other life safety hazard on the property or adjacent thereto.

f. The approval or denial of an exemption by the city manager may be appealed, in whole or in part, to the board of adjustment in accordance with the procedures set forth in section 84-27 of this chapter.

g. Property not eligible for an exemption under this subsection may still be eligible for a variance under the procedures set forth in section 84-27 of this chapter.

(c) Process to be followed if property is in noncompliance.

(1) For property in which an exemption is not granted, the city manager, building official or other authorized city official is authorized to:

a. Provide notice to any affected property owner, lien holder, and/or certificate of occupancy holder, listing any items of noncompliance;

b. Revoke a certificate of occupancy of any building or structure for noncompliance with a code, ordinance, or regulation; and

c. File an affidavit in the county deed records noting the item(s) of noncompliance, and that a certificate of occupancy shall not be reissued until such noncompliance is cured. Once the property and its improvements are brought into full compliance with all applicable ordinances of the city, an affidavit shall be filed in the county deed records noting such compliance.

(Ord. No. 1133, § 1(3-300), 3-22-94; Ord. No. 1917, § 2, 6-28-11)

Editor's note–Ord. No. 1917, § 2, adopted June 28, 2011, changed the title of § 84-52 from Status of nonconformity to recognition of nonconformity.

Sec. 84-53 Registration of nonconforming uses

The user or owner of all nonconforming uses of land or buildings shall, within 18 months of the effective date of this chapter, register such nonconforming use by obtaining from the city a certificate of occupancy (nonconforming). Such certificate of occupancy (nonconforming) shall be considered as evidence of the legal existence of a nonconforming use as contrasted to an illegal use or violation of this chapter. The city shall maintain a register of all certificates of occupancy issued for nonconforming uses.

(Ord. No. 1133, § 1(3-400), 3-22-94)

Sec. 84-54 Termination of nonconforming uses

It is the intent of this chapter that nonconforming uses eventually be discontinued having due regard for the investment. Conditions that would require nonconforming uses to be terminated are provided below.

(1) Remodeling and enlarging. A nonconforming use may be occupied, used and maintained in good repair, but it shall not be remodeled or enlarged except as hereinafter provided.

(2) Right to operate. The right to operate a nonconforming use shall cease and such use shall be terminated under any of the following circumstances:

a. Abandoned use of structure. Whenever a nonconforming use is abandoned, all nonconforming rights shall cease and the use of the premises shall henceforth be in conformance with this chapter. Abandonment shall involve the intent of the user or owner to discontinue a nonconforming operation and the actual act of discontinuance. Any nonconforming use which is discontinued, or which remains vacant, for a period of six months shall be considered abandoned.

b. Violation of provisions. Whenever there is a violation of any of the provisions of

this chapter or violation of any ordinance of the city with respect to a nonconforming use.

c. Conformance by rezoning. Whenever a nonconforming use is changed to a conforming use by rezoning so as to achieve compliance with the provisions of a new or different zoning district.

d. Conformance by change of use. Whenever a nonconforming use is changed to a conforming use under the provisions of this chapter.

e. Destroyed or damaged structure. Whenever the structure in which a nonconforming use is housed, operated or maintained is destroyed or damaged by fire or other causes to the extent of more than 51 percent of the replacement cost of the structure, on the date of the damage, the right to operate such nonconforming use shall terminate.

f. Termination by board. Whenever the right to maintain or operate a nonconforming use is terminated by the board in accordance with the provisions of this chapter.

g. Time limitation. Whenever the time limitation established by a special use permit has expired.

(Ord. No. 1133, § 1(3-500), 3-22-94)

Sec. 84-55 Changing nonconforming uses

Changes from nonconforming uses to conforming uses may be approved administratively, however, changes that do not eliminate nonconforming uses shall be considered by the board of adjustments and may be authorized only upon the board's finding that the change conforms to the intent of this chapter and is in the public's interest.

(1) Changing to conform. Any nonconforming use may be changed to a conforming use and once such change is made, the use shall not thereafter be changed back to a nonconforming use.

(2) Granting of change. The board may grant a change of use from one nonconforming use to another nonconforming use provided such changes are to a use permitted in a zoning district where the original nonconforming use would be permitted or provided that such change is to a use permitted in a more restrictive classification. However, such change of use and occupancy shall not tend to prolong the life of a nonconforming use. Upon review of the facts, the board may establish a specific period of time for the return of the occupancy to a conforming use.

(3) Approval to remodel and/or enlarge. The board may approve the remodeling and/or enlargement of a nonconforming use when such an enlargement would not tend to prolong the life of the nonconforming use.

(Ord. No. 1133, § 1(3-600), 3-22-94)

Sec. 84-56 Limitations on changing nonconforming uses

Certain changes to nonconforming uses shall not be authorized by the board of adjustment and are identified below.

(1) Changing to another nonconforming use. No nonconforming use shall be changed to another nonconforming use which requires more off-street parking or loading spaces than the original nonconforming use unless additional off-street parking or loading spaces are provided so as to comply with the requirements of this chapter.

(2) Maintenance of dwelling unit density. The number of dwelling units in a nonconforming residential use shall not be increased so as to exceed the number of dwelling units existing on the effective date of this chapter.

(3) Changes occurring off-site. No nonconforming use may be expanded or increased beyond the lot or tract upon which such nonconforming use is located as of the effective date of this chapter except to provide off-street loading or parking spaces upon approval of the board.

(4) Other ordinances. All nonconforming uses being expanded under the provisions of the ordinance shall comply with all other applicable provisions of this chapter.

(Ord. No. 1133, § 1(3-700), 3-22-94)

Sec. 84-57 Termination of nonconforming structures

The right to use and maintain a nonconforming structure shall cease whenever any of the following actions occur.

(1) Damage or destruction. In the event of damage or destruction of a nonconforming structure to the extent of 51 percent of the replacement cost, such structure may be rebuilt only after public hearing and favorable action by an affirmative vote of four members of the board.

(2) Demolition. Whenever a nonconforming structure is determined to be obsolete, dilapidated, or substandard by the board, the right to operate, occupy, or maintain such structure may be terminated by action of the board and such structure shall be demolished.

(Ord. No. 1133, § 1(3-800), 3-22-94)

Sec. 84-58 Use of nonconforming structures

Use, occupancy, remodeling and maintenance of nonconforming structures is hereby authorized subject to the following regulations.

(1) Enlarging, remodeling and occupying. Any nonconforming structure may be enlarged, remodeled, occupied, used and maintained in a state of good repair, but

no nonconforming structure shall be enlarged or extended so as to increase the nonconformity with any of the provisions of this chapter.

(2) Certificate of occupancy and compliance. Where a nonconforming use is located in a structure which is nonconforming, the use may be changed to another conforming use by securing a certificate of occupancy and compliance.

(Ord. No. 1133, § 1(3-900), 3-22-94)

Sec. 84-59 Amortization of nonconforming uses and structures

(a) The board, upon the request of the city or the owner of property upon which is located a nonconforming structure or use, shall initiate an action to bring about the discontinuance of the nonconforming use or the removal of a nonconforming structure, or both, by a date certain.

(b) The board shall conduct a hearing for the purpose of determining a date certain for termination of the nonconforming use or removal of the nonconforming structure, or both, with respect to the property. If such action is initiated by the city, prior notice of such hearing shall be given to the property owner.

(c) The date established for termination of the nonconforming use or removal of the nonconforming structure is to give the property owner an opportunity to recover its investment in the nonconforming structure or use from the time such property or structure became nonconforming.

(d) The board shall measure the reasonableness of the opportunity for recoupment of the property owners investment by conditions existing at the time such use or structure became nonconforming.

(e) The following factors must be considered by the board in determining a reasonable amortization period:

(1) The owners capital investment in structures, fixed equipment, and other assets (excluding inventory and other assets that may be feasibly transferred to another site) made on the property before the time the use, the structure, or both, as applicable, became nonconforming. Costs of replacements, improvements or additions made after the structure or use became nonconforming shall not be included.

(2) Any costs that are directly attributable to the establishment of a compliance date, including demolition expenses, relocation expenses, termination of leases, and discharge of mortgages.

(3) Any return on investment since inception of the use, or construction of the structure, including net income and depreciation.

(4) Recovery of investment, including net income and depreciation.

(5) General character of the neighborhood in proximity to the nonconforming use or

structure and the necessity for all property within the City of Euless to conform to the regulations of the unified development code of the City of Euless.

(f) Once the board establishes a compliance date for a nonconforming use, the use must cease operations on or before that date and it may not operate thereafter unless it becomes a conforming use.

(g) Once the board establishes a termination date for a nonconforming structure, the structure must be completely removed from the property by that date, by demolition or otherwise, and such structure may not be reconstructed or relocated in any other location in the city where it would not be in conformance with all provisions of the unified development code then in effect.

(Ord. No. 1341, § I, 12-8-98; Ord. No. 1440, § I, 8-8-00)

Secs. 84-60–84-79 Reserved

ARTICLE IV. ZONING DISTRICT REGULATIONS

Division 1. Generally

Sec. 84-80 Zoning districts established

In order to uniformly regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land, the City of Euless is hereby divided into the following zoning districts or classifications:

R-1C Single-family custom dwelling district.

R-1 Single-family dwelling district.

R-1L Single-family limited dwelling district.

R-1A Single-family attached dwelling district.

R-2 Two-family dwelling district.

R-3 Low density multiple-family dwelling district.

R-4 Medium density multiple-family dwelling district.

R-5 High density multifamily dwelling district.

MH Mobile home dwelling district.

C-1 Neighborhood business district.

C-2 Community business district.

TX 10 Texas Highway 10 multi-use district.

L-1 Limited industrial district.

I-1 Light industrial district.

I-2 Heavy industrial district.

PD Planned development district.

(Ord. No. 1133, § 1(4-100), 3-22-94)

Sec. 84-81 Zoning map adopted

Zoning districts established by this chapter are bounded and defined as shown on the official zoning map of the city, which, together with all explanatory materials contained herein, is hereby made a part of this chapter. In interpreting the official zoning map, the following rules shall apply:

(1) Location of district boundaries. The district boundaries are the centerline of either streets or alleys unless otherwise shown, and where the district designated on the zoning map is bounded approximately by a street or alley, the center line of such street or alley shall be construed to be the boundary of the district.

(2) Undimensioned district boundaries. Where the district boundaries are not otherwise indicated by dimensions, and where the property has been or may hereafter be subdivided, district boundaries shall be construed to be the lot lines, and where the district designated on the official zoning map is bound approximately by lot lines, the lot lines shall be the boundary of the district.

(3) Unsubdivided property. In unsubdivided property, the district boundary lines on the official zoning map shall be determined by use of the scale appearing on the map. However, in cases of conflict, the recorded metes and bounds description shall be used in determining district boundary lines.

(Ord. No. 1133, § 1(4-200), 3-22-94)

Sec. 84-82 District boundary uncertainty

If after application of the aforementioned rules, uncertainty still exists with respect to the boundaries of the various district as shown on the official zoning map, the conflict shall be resolved by utilizing the appeal power of the board of adjustment as set forth in section 84-27(10) of this chapter. If, because of error or omission in the official zoning map, any property in the city is not shown as being in a zoning district, such property shall be classified as R-1, single-family detached residential.

(Ord. No. 1133, § 1(4-201), 3-22-94)

Sec. 84-83 Annexation zoning procedures

(a) Temporary zoning. All territory annexed to the city hereafter shall be temporarily designated as R-1, single-family detached dwelling district, until permanently zoned by the council.

The commission shall, as soon as practicable after annexation of any territory to the city, institute proceedings on its own motion to give the newly annexed territory a permanent zoning classification, and the procedures to be followed shall be the same as is provided by law for the amendment of the zoning ordinance.

(b) Construction in annexed areas with temporary zoning. In an annexed area temporarily classified as R-1, no construction of a building other than those allowed in a R-1 district shall be permitted unless such construction has been specifically authorized by council and a permit issued.

Construction of buildings other than those permitted in R-1 district may be authorized in newly annexed areas prior to permanent zoning in the following manner.

(1) Application required. An application for any use shall be made to the administrator: said application shall show the use contemplated, a plat showing the size of the lot or tract of land proposed to be used, and the location, size and type of buildings proposed to be constructed.

(2) Referral by administrator. Such application shall be referred by the administrator to the commission for consideration.

(3) Commission recommendation. The commission shall make its recommendation to the council after giving due consideration to the land use plan for the area in which the application is located.

(4) Council action. Whenever such a recommendation is filed with the council, it shall be advisory only and the council may grant or deny the application as the facts may justify.

(5) Building permit. If approved by the city council the applicant may apply for a building permit provided the building permit application is consistent with city council authorization.

(Ord. No. 1133, § 1(4-300), 3-22-94)

Sec. 84-84 Permitted uses table

Only those uses listed in the following permitted use table shall be permitted and then only in the district(s) specified with a “P” or “S” as described below.

(1) Use of land and buildings. Buildings, structures, land or premises shall be used only in accordance with the uses permitted in the zoning district classification for the site subject to compliance with parking regulations, site development standards, special

conditions and all other requirements of this chapter.

(2) Permitted primary uses. No primary use shall be permitted in any district unless the letter "P" or the letter "S" appears opposite the permitted primary use as listed in Table 4-A.

a. Permitted uses. The letter "P" means the use is permitted in that zoning district as a use by right subject to providing off-street parking as referenced in the "parking" column and required in Table 5-A and subject to compliance with all of the conditions referenced in the "special" column on the far right and described in section 84-85.

b. Specific use permit. The letter "S" means the use is permitted in that zoning district only after obtaining a "specific use permit" as set forth in Table 4-A, and subject to providing off-street parking as referenced in the "parking" column and required in Table 5-A and subject to compliance with all of the conditions referenced in the "special" column and described in section 84-85.

(3) Uses not listed. Uses not listed in Table 4-A may be permitted in any district where similar uses are permitted upon receiving a permit there for from the administration. The function and locational requirements of the unlisted use must be consistent with the purpose and description of the zoning district, compatible with permitted uses in the district, and similar in traffic-generating capacity, noise, vibration, dust, odor, glare and other characteristics.

(4) Accessory uses. A use which is customarily incidental to the primary use, which is located on the same lot or premise as the primary use, and which has the same zoning district classification shall be permitted as an accessory use without being separately listed as a permitted use.

(5) Definition of uses. The group description in the 1987 Standard Industrial Classification (SIC) Manual, prepared by the Statistical Policy Division for the United States Office of Management and Budget, shall be used to determine the classification of primary uses when reference is made in Table 4-A to a designated SIC code number. Such manual shall be filed in the office of the administrator for public inspection during business hours.

(6) Temporary uses. The city council may approve the operation of temporary uses on any property for a specific period of time. Such temporary uses are typically associated with an already existing use and are subject to review to ensure adequate facilities exist or will be provided to serve the public and employees of the temporary use.

a. Permit required. Temporary uses such as a carnival, concrete or asphalt batch plant, seasonal, parking lot, sidewalk, truckload and other temporary sales of merchandise may be permitted provided a temporary use permit is first obtained from the city council.

b. Effective period. No temporary use permit shall be valid for more than 90

consecutive days and shall be subject to any and all restrictions, requirements, and safeguards established by city council at the time the temporary use permit is considered.

c. Restrictions and requirements. Such restrictions, requirements or safeguards may include, but are not limited to, hours of operation, duration of the use, parking, setbacks, signage and any other requirement deemed necessary to protect the general welfare of the community and minimize negative impacts on adjacent properties.

(7) Temporary structures. The building official may approve a permit for a temporary structure. Such temporary structures are typically associated with an active development on platted property, for which a building permit for permanent construction on said property has been issued, or an application therefor has been submitted and is under review. A HUD-Code manufactured home may be used as a temporary structure, provided it meets all other requirements of this chapter.

a. Permit required. Temporary structures may be permitted provided a temporary structure permit is first obtained from the building official or his designee.

b. Effective period. A temporary structure may be used only during actual construction, for a period not to exceed two years. Separate approval may be considered by the building official if actual construction exceeds two years.

c. Restrictions and requirements.

1. Two site plan drawings shall be submitted;

2. All setback requirements and easement restrictions must be followed. The facility shall comply with all TAS requirements for ADA (i.e. ramps, door knobs, etc.);

3. Must have ground anchors every ten foot along length of structure;

4. Structure shall have skirting around entire perimeter of trailer to conceal undercarriage and be properly landscaped;

5. A temporary three-foot wide sidewalk is required from the structure to the curb;

6. The structure must be kept clean and free of trash and debris at all times;

7. No outside storage or other buildings shall be placed on lot;

8. Plans shall be approved by the building official or his designee;

9. If water and sewer are connected, inspections are required and all contractors shall be registered;

10. The contractor agrees to move the structure within 30 days upon request from the building official due to complaints;

11. The temporary structure shall be removed prior to the final certificate of occupancy being issued or final inspection performed.

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Table 4-A. Permitted Primary Uses(83)

(Ord. No. 1417, § 1, 3-28-00; Ord. No. 1418, § 1, 3-28-00; Ord. No. 1445, § 6, 9-26-00; Ord. No. 1535, § 4, 6-25-02; Ord. No. 1609, § 1, 10-28-03; Ord. No. 1634, § I, 3-23-04; Ord. No. 1789, § 1, 9-11-07; Ord. No. 1806, § 2, 2-26-08; Ord. No. 1826, § 1, 9-9-08; Ord. No. 1833, §§ 1-6, 10-28-08; Ord. No. 1977, § 2, 11-13-12; Ord. No. 1978, § 2, 11-13-12; Ord. No. 1976, § 2, 11-27-12)

EXHIBIT A

"TX-121" 121 GATEWAY DISTRICT USE TABLE

Empty = Not a Permitted Use

P = Permitted Use

S = Permitted Use with a Specific Use Permit

T = Temporary Use Approved by City Council

SIC Code	Primary Use		Parking Group Table 5-A	Special Condition Sec. 84-85
	AGRICULTURAL ACTIVITIES			
0181	Plant Nurseries-Non-Retail	S	14	o
0191	General Farming	P		g
01**	Agricultural Production-Crops	P		g
0212	Beef Cattle, except feed lots	P		g
0272	Horses and other Equines	P		g
02**	Agricultural Production-Livestock and Animal Specialties	S		g
0781	Landscape Designers with outside storage	S	8	
0781	Landscape Designers with inside storage	P	8	
10**	Metal Mining	S		
13**	Oil and Gas Extraction	S		
14**	Nonmetallic Mineral Mining	S		
	RESIDENTIAL ACCOMMODATIONS			
****	Single-family Dwellings (Detached)	P	3	l
****	Single-family Dwellings (Attached)	S	3	w
****	Limited Access Developments	S		ag

****	Residential Accessory Uses	P		a,b,t
****	Private Street Developments	S	3	af
****	Home Occupations	P		n
6513	Retirement Housing	S	1	
7011	Bed and Breakfasts	S	1	ad
7011	Hotels and Motels	S	1	ad
7021	Independent Living	S	3	
7041	Membership Hotels and Lodging Facilities	S	1	
8361	Senior Citizens Assisted Living	S	1	
	INSTITUTIONAL AND EDUCATION FACILITIES			
****	Accessory Residential with Educational Facilities	S	2	
805*	Nursing and Personal Care Facilities	S	22	
8062	Hospitals	P	22	
8211	Elementary Schools (Private)	S	19	
8211	Elementary Schools (Public)	P	19	
8211	Middle or Junior High Schools (Private)	S	18	
8211	Middle or Junior High Schools (Public)	P	18	
8211	Secondary or Senior High Schools (Private)	S	17	
8211	Secondary or Senior High Schools (Public)	P	17	
8221	Colleges or Universities (Public or Private)	S	16	d
8231	Libraries and Information Centers	P	7	
824*	Vocational and Correspondence Schools	S	16	
8299	School and Educational Services, Not Elsewhere Classified	S	16	
8322	Community Center-Outdoor	S	23	
8322	Community Center-Indoor	P	23	
8351	Day Care and Nursery Facilities (more than five children)	S	20	h
8351	Day Care and Nursery Facilities (five or fewer children)	P	20	h,n
83**	Social Services (other than below)	S	6	
8412	Museums, Galleries	S	9	
8422	Botanical Gardens	S	9	
8661	Churches and Other Places of Worship	S	23	
86**	Nonprofit Private Membership Organizations	S	8	
91**	Federal, State, and Local Government Uses	S	8	
	PUBLIC UTILITY AND COMMUNICATION FACILITIES			
48**	Antennas	S		
48**	Telecommunications Facilities and Broadcast Stations (manned)	S	8	
48**	Telecommunications Facilities and Broadcast Stations (unmanned) (with screening)	S		

4899	Radar Stations	S	20	
4899	Satellite Reception Dishes (≤ 3 ft. dia.)	P		s
4899	Satellite Reception Dishes (> 3 ft. dia.)	S		s
4911	Electrical Generating Plants and Electrical Substations	S	20	q
4939	Utility Transmission Facilities (High Voltage, Petroleum, etc.)	S		q
493*	Public Utility Supply and Storage Yards	S	20	q
4941	Private Lift Stations	S		
4941	Water Storage, Control, and Pumping Facilities	S		q
4941	Water Purification Facilities	S		q
4952	Wastewater Pumping Facilities	S		q
	OFFICE USES			
60**	Depository Institutions except Drive Through	P	8	
60**	Drive Through Depository Institutions	S	8+28	
61**	Nondepository Credit Institutions	P	8	
6099 or 614*	Nondepository financial institution as defined in Sec 84-7		8	
62**	Security Brokers and Commodity Brokers	P	8	
64**	Insurance Agencies	P	8	
65**	Real Estate Agencies	P	8	
807*	Medical and Dental Laboratories	P	6	
808*	Outpatient Care Facilities	P	6	
80**	Health-Related Professional Services (other than below)	P	6	
81**	Legally-Related Professional Services	P	8	
871*	Design-Related Professional Services	P	8	
872*	Financially-Related Professional Services	P	8	
	RETAIL TRADE			
****	Temporary Retail Uses	T	6	
5211	Lumber, Building Materials (indoor only)	P	9	
5211	Lumber, Building Materials (open storage)	S	9+14	
5231	Paint, Glass and Wallpaper Stores	P	6	
5251	Hardware Stores	P	6	
5261	Lawn and Garden Centers	S	6	z
53**	General Merchandise Stores	P	6	
54**	Food Stores	P	6	
5511	Motor Vehicle Dealers (new and used)	S	15	ah
5531	Auto and Home Supply Stores (indoor only)	P	6	
5541	Gasoline Sales/Convenience Stores	S	21	
5551	Boat Dealers	S	15	ah
5561	Recreational Vehicle Sales or Rental	S	14	ah
5571	Motorcycle Dealers	S	9	
5599	Utility Trailer Sales or Rental	S	14	ah

56**	Apparel and Accessory Stores	P	6	
57**	Furniture and Home Furnishings Stores	P	9	
5812	Eating Establishments (drive through)	S	5	j, ab
5812	Eating Establishments (except drive through)	P	4+28	j, ab
5812	Food Caterers (Commercial)	S	8	
5812	Food Caterers (Retail)	P	8	
5912	Drug Stores and Proprietary Stores (excluding Novelty Stores)	P	6	x
5921	Beer and Wine Stores only	S	6	
5932	Used Merchandise Stores	S	6	
5932	Consignment and Antique Stores/Dealers (indoor sales only)	S	6	
5941	Sporting Goods Stores and Bicycle Shops	P	6	
5942	Book Stores (General)	P	6	
5943	Stationery Stores	P	6	
5944	Jewelry Stores	P	6	
5945	Hobby, Toy, and Game Shops	P	6	
5946	Camera and Photographic Supply Stores	P	6	
5947	Gift and Souvenir Shops (excluding Novelty Shops)	P	6	
5948	Luggage and Leather Goods Stores	P	6	
5949	Sewing, Needlework and Piece Goods-Retail	P	6	
5992	Florists	P	6	
5993	Cigar Stores	P	6	x
5994	News Dealers	S	6	
5995	Optical Goods Stores	P	6	
596*	Nonstore Retailers	S	14	
5999	Miscellaneous Retail Stores, Not Elsewhere Classified	S	6	
	PERSONAL SERVICES			
4119	Park and Ride Commuting Facilities	S		
472*	Travel Agents	P	8	
7212	Garment Pressing and Agents for Laundry or Dry Cleaning	P	8	
7213	Linen Supply	P	11	
7215	Coin-Operated Laundries and Cleaners	P	24	
7216	Dry Cleaning Plants	S	11	
7217	Carpet and Upholstery Cleaning	P	11	
7218	Industrial Launderers	S	11	
7219	Diaper Services	P	11	
7221	Photographic Studios, Portrait	P	8	
7231	Beauty Shops	P	8	
7231	Permanent makeup cosmetic studio	P	8	
7241	Barber Shops	P	8	
7251	Shoe Repair and Shine Shops	P	8	

7299	Miscellaneous Personal Services, Not Elsewhere Classified	S	8	
7299	Tattoo and/or body modification studio		8	al
7631	Watch, Clock, and Jewelry Repair	P	6	
	BUSINESS SERVICES			
****	Phone Banks	S	20	
7311	Advertising Agencies	P	8	
7312	Outside Advertising Services (other than below)	S	8	
7312	Outside Advertising Services (office facilities only)	P	8	
732*	Consumer Credit Reporting and Collection Agencies	P	8	
733*	Reproduction and Stenographic Services	P	8	
734*	Services to Dwellings and Other Buildings (with outside sales)	S	11	
734*	Services to Dwellings and Other Buildings (no outside sales, storage or display)	P	11	
736*	Personnel Supply Services	P	8	
7378	Computer Maintenance and Repair	P	8	
737*	Computer and Data Processing Services	P	8	
7381	Detective Agencies and Protective Services	P	8	
7383	News Syndicates	P	8	
7384	Photo Finishing Laboratories	P	8	
7389	Call Centers	P	20	
7389	Trading Stamp Services	P	8	
7389	Business Services, Not Elsewhere Classified	S	8	
7521	Commercial Parking Lots	S		
7629	Electronic Equipment Repair	P	8	
8734	Commercial Testing Laboratories	P	8	
87**	Management, Engineering, Accounting, Consulting, or Public Relations	P	8	
	AUTOMOTIVE SERVICES			
7514	Passenger Car Rental (with on-site vehicle storage)	S	15	
7515	Passenger Car Leasing (with on-site vehicle storage)	S	15	
7521	Parking Structures	P		
7532	Top and Interior Repair	S	9	u
7534	Tire Repair	S	9	u
7538	General Automotive Repair	S	9	c, u
7542	Carwashes (Full Service)	S	27	c
	AMUSEMENT AND RECREATIONAL SERVICES			
781*	Motion-picture Production	P	10	
782*	Motion-picture Distribution	P	10	

7832	Motion-picture Theaters (except Drive In)	S	23	
7841	Video Rental	P	6	
7911	Dance Halls and Clubs	S	8	
7911	Dance Studios and Schools	S	8	
792*	Theatrical Producers, Bands, and Entertainers (Agents)	P	8	
793*	Bowling Centers	S	26	
794*	Commercial Sports Clubs and Race Tracks	S	23	
7991	Health Clubs or Fitness Centers	P	5	
7992	Public Golf Courses	S	25	i, m
7993	Coin Operated Amusement Devices and Arcades	S	6	ac
7996	Amusement Parks	S	6	
7997	Membership Sports and Recreation Clubs	S	6	
7997	Accessory Game Courts (Private)	S	6	
7999	Golf Driving Ranges	S	25	i
7999	Miniature Golf Centers	S	25	
7999	Pool Halls and Billiards Parlors	S	26	
7999	Swimming Pools (Private Residential)	P		v
7999	Swimming Pools (Private Non-Residential)	S		v
7999	Amusement Services, Not Elsewhere Classified	S	6	
	TRUCKING/WAREHOUSING AND WHOLESALE TRADE			
****	Recycling Drop-Off Container	S		
4215	Courier Services (office generated only)	P	8	
4225	General Warehousing (except Self Storage Facilities)	S	13	
4225	Office Showroom/Warehouse	P	6/12	
4731	Freight or Cargo Agents (office only)	P	8	
4731	Freight or Cargo Agents (kiosk)	P	20+27	
50**	Durable Goods (excluding 5052 and 5093) (indoor only)	P	12	
50**	Durable Goods (excluding 5052 and 5093) (with outdoor storage)	S	12+14	
51**	Nondurable Goods (excluding 515*, 516*, and 517*)	S	12	
	TRANSPORTATION FACILITIES			
41**	Transit and Highway Passenger Facilities	S	12	
43**	U.S. Postal Service	P	12	
46**	Pipelines	S	12	
9221	Police Station	S	6	
9224	Fire Station	S	8	

Note: No sexually oriented businesses of any kind will be allowed in this district.

(Ord. No. 1133, § 1(4-400), 3-22-94; Ord. No. 1177, §§ III, V, 5-23-95; Ord. No. 1228, § 1, 2-11-97; Ord. No. 1232, § 1, 4-8-97; Ord. No. 1235, §§ 1, 2, 6-10-97; Ord. No. 1255, § 1, 10-14-97; Ord. No. 1310, § II, 9-8-98; Ord. No. 1417, § 1, 3-28-00; Ord. No. 1418, § 1, 3-28-00; Ord. No. 1609, § 2, 10-28-03; Ord. No. 1692, § II, 5-31-05; Ord. No. 1977, § 2, 11-13-12; Ord. No. 1978, § 2, 11-13-12)

Sec. 84-85 Special conditions by use type

Special conditions. The following describe the special conditions under which certain uses may be permitted in a zoning district when reference is made to one or more of said subsections in Table 4-A of this Code. No construction or occupancy shall commence for any permitted use with special conditions until all of the required conditions have been met.

(a) Accessory buildings. An accessory building may be erected as an integral part of or detached from the main building. It may also be connected by a breezeway or similar structure. An attached accessory building shall be made structurally a part of and have a common wall with the main building and shall comply in all respects with the requirements of this Code applicable to the main building.

(b) Accessory buildings. Private garages and servant's quarters are permitted as accessory buildings on a residential lot subject to the following:

(1) The accessory building is located behind the main structure or no closer than 80 feet from the front property line.

(2) The accessory building is located no closer than three feet to any other property line and behind any applicable building line.

(3) The accessory building is not located within any easement unless the building is portable and written permission has been given by the easement holder.

(4) The maximum height of the structure does not exceed eight feet when located three feet from the property line and provided the height may be increased at a rate of one additional foot per two additional feet of setback provided.

(5) The floor area of the accessory building does not exceed 50 percent of the minimum required rear yard in the case of a one story building or 40 percent of the minimum required rear yard in the case of a two story building.

(6) An accessory building used as a garage, carport or off-street parking of any vehicle must strictly comply with parking requirements specified in article V of this chapter.

(7) An accessory building used for servant's quarters shall not be leased or rented to anyone other than a family member of a bona fide servant devoting 50 percent of said servant's time to the family occupying the premises.

(8) Such accessory buildings shall not be used for commercial or part time business uses.

(9) The city manager may authorize the construction of a carport or similar covered structure where necessary to accommodate an automobile installed with handicap accessible adaptive equipment utilized by a person with a severe physical disability. Authorization shall be granted on a case by case basis based on the existence of conditions that require special access needs that are created by the severe physical disability. Prior to granting authorization, the city manager shall determine: i) that no other reasonable alternative exists to provide necessary access; ii) that the structure will not unreasonably interfere with the use and enjoyment of adjacent properties, nor significantly diminish or impair property values within the vicinity; and iii) whether special conditions and requirements should be placed on the construction of the structure to ensure compatibility with adjacent properties. The structure shall be removed if the applicant's physical condition that necessitated the request ceases to exist or the applicant no longer resides in the home. A structure that no longer complies with these conditions shall be deemed to be an illegal use and shall not be grandfathered under nonconforming use regulations. If approval of a structure is granted, an affidavit shall be filed in the Tarrant County Deed Records noting the conditions under which the approval was granted. A "severe physical disability" is a condition which seriously limits two or more functional capacities such as mobility, communication, self care, self direction, or work skills.

(c) Automobile service centers. Automobile service centers, when designed and developed as an integral part of a larger planned shopping center, provided that such service centers shall be secondary to the retail function of the larger center and that appropriate and adequate paved and screened temporary holding areas shall be provided to accommodate vehicles waiting to be served.

(c-1) Churches and other places of worship. Churches and other places of worship located on land zoned for one-family or two-family dwelling purposes shall be located on a lot of not less than 50,000 square feet and not more than five acres and any structure thereon, other than an accessory building, that is located within 25 feet of land zoned for one-family or two-family dwelling purposes shall be limited to a single story in height with a maximum height of 35 feet provided all front, side and rear yards required are increased an additional one foot for each vertical foot the building exceeds 25 feet in height.

(d) Colleges, universities and professional schools. Colleges, universities and other institutions of higher learning, public and private, offering courses in general, technical, or religious education, and not operated for profit, are subject to the following conditions:

Any use permitted herein shall be developed only on sites of at least 40 acres in area.

All ingress to and egress from said site shall be directly onto a major thoroughfare.

(e) Common open space. There shall be a minimum of 600 square feet of usable common open space per dwelling. Common open space must be usable for recreational activities and shall be assembled in contiguous areas of not less than 10,000 square feet.

(f) Common wall construction. Common walls shall be constructed as a double wall unit that meets a minimum two-hour fire rating and has an approved soundboard integrated between wall studs that are staggered and offset along either side of such soundboard. Such double wall unit shall be constructed in its entirety to the roof deck and shall meet the requirements of the city's current building codes.

(g) Crops/livestock. Farms, truck gardens, orchards or nurseries for the growing of plants, shrubs and trees, provided no retail or wholesale sales activities are conducted on the premises, and provided that no livestock shall be kept any closer than 100 feet from any building located on adjoining property that is used for human habitation or within an area of less than 1/2 acre per animal.

(h) Day care centers. Nursery schools and child care facilities (not including dormitories); provided that for each child cared for, there shall be provided and maintained a minimum of 150 square feet of outdoor play area.

(i) Golf driving ranges.

(1) The site plan shall show the layout of the property and indicate the location of all driving ranges, putting greens, fences and structures.

(2) Accessory uses shall be limited to a refreshment stand, a maintenance shed, a miniature golf course and a pro shop.

(j) Eating establishments. The sale of alcoholic beverages shall be permissible only as an adjunct, minor and incidental use to the primary use which is the sale and service of food.

(k) Food stores. No establishment in a "C-1" district may occupy more than 5,000 square feet of gross floor area.

(l) Garage apartment. Garage apartments that are occupied by family members of the occupant of the principle dwelling and that meet all yard, open space, and off-street parking requirements are permitted. A garage apartment shall not be occupied by more than one family or be permitted in conjunction with another dwelling on the same lot designed for more than two families. Second floor garage apartments shall be set back two additional feet for every foot in height that the structure exceeds 20 feet (inclusive of roof) in height.

(m) Golf courses. Golf courses, either public or private, subject to the following conditions:

The site shall be planned so as to provide all ingress and egress directly to or from a major thoroughfare.

The site plan shall be laid out to achieve a relationship between the major thoroughfares and any proposed service roads, entrances, driveways and parking areas which will encourage pedestrian and vehicular traffic safety.

Development features, including the principal and accessory buildings and structures, shall be so located and related as to minimize the possibilities of any adverse effects upon adjacent property. This shall mean that all principal or accessory buildings shall be not less than 200 feet from any residentially zoned property, provided that where topographic conditions are such that buildings would be screened from view, the commission may modify this requirement.

Whenever a swimming pool is to be provided, said pool shall be provided with a protective fence six feet in height and entry shall be by means of controlled self-locking gate.

(n) Home occupations. Occupations or activities clearly incidental and subordinate to the use of the premises for dwelling purposes maybe conducted within a dwelling unit; provided that:

(1) Orders previously made by telephone or at a sales party may be filled on the premises; other merchandise cannot be offered for sale on the premises.

(2) Stock in trade or commodities can be maintained if used in the production of a product.

(3) Family members residing on the premises can be employees, others not permitted.

(4) Advertising, signage, or other exterior identification of the home occupation is not permitted.

(5) Exhibits or display of services, goods, wares or merchandise will be permitted on the premises unless they are visible from any private street or public right-of-way, or adjacent property.

(6) Equipment may be used unless it creates offensive noises, vibrations, sound, smoke, dust, odors, heat, glare, X-ray, or electrical disturbance to radio or television.

(7) Motor vehicles registered to the occupant of the property, may be repaired on site unless it is a racing vehicle. Other motor vehicle repairs are not permitted.

(8) Home occupations will be conducted within the living portion of the dwelling unit or its garage. Accessory buildings or detached structures shall not be used in conjunction with the home occupation.

(9) Customers or clients are allowed only at the dwelling unit from 6:00 a.m. through 9:00 p.m. except day care.

(10) Day care for compensation is allowed for not more than five children under the age of 16 years or for no more than two adults or elderly, other than the ward or guardian or caretaker's family.

(11) Music teaching is allowed for no more than two students at any one time.

(12) Traffic generated by the home occupation will not be in greater volume than would normally be expected in a residential neighborhood of like character.

(13) Parking of vehicles shall be permitted only in the driveway of the dwelling unit or along the curb immediately adjacent to the premises.

(14) Parking for no more than one vehicle, the primary purpose of which is for use in support of the home occupation, may be overnight for a vehicle having a manufacturer's rated carrying capacity of 3,000 pounds (1-1/2 tons) or less. Larger vehicles may remain parked for only two hours in any 24-hour period.

(15) See chapter 82, "Traffic and Motor Vehicles" for further regulations.

A home based occupation is permitted only as an incidental use and is secondary to the use of the premises as a dwelling. As such, the city council may, at any time, amend this section to terminate any or all home occupations and home based business uses without creating nonconforming rights to the continuation of a home based business.

(o) Plant nurseries. No more than 25 percent of the retail stock shall be of materials not grown on the premises. Establishments that sell plants at retail but are cultivated at another site are classified under SIC 5261.

(p) Private recreation facility. Private recreational facilities shall be required for all multifamily residential developments. Such uses shall be restricted to use by the occupants of the residences and their guests, or by members of a homeowner's association and their guests, and shall be limited to such uses as swimming pools, open game fields, basketball, shuffleboard, racquetball, croquet, and tennis courts, and meeting or locker rooms. Private recreation facilities shall not be located within 25 feet of any street right-of-way or within ten feet of any abutting property line. Activity areas shall be fenced and screened from abutting properties. Dispensing of food and beverages shall be permitted on the premises only for the benefit of users of the recreation facility and not for the general public. Off-street parking shall be required on the basis of one space for each 4,000 square feet of area devoted to recreational use.

(q) Public services. Because of their public necessity, public service uses are permitted in most zoning districts. If the administrator determines that the use may cause either a possible hazard to nearby residents or passers-by or any interference with the development, use, or enjoyment of surrounding property, more extensive fencing or screening than the required landscaped screening strip may be required.

(r) Repair garages. Automobile repairing, painting, upholstering and body and fender work shall be performed only under the following conditions:

Appropriate and adequate paved and screened temporary holding areas shall be provided to accommodate vehicles waiting to be serviced;

All body and fender repairing shall be conducted within a completely enclosed building or room with stationary windows and doors that are opened only when necessary for ingress and egress;

All spray painting shall be conducted in a building or room specially designed for such purpose; and

All auto repairing shall be conducted within a building enclosed on at least three sides.

(s) Satellite reception dishes. Satellite reception dishes greater than three feet in diameter shall be permitted through the city's inspection department, and shall have paid an inspection fee as set forth by the latest fee schedule adopted by the city council and be subject to the following requirements:

(1) Residentially zoned property. Satellite reception dishes located on residentially zoned property when visible from adjacent properties or streets shall meet the following requirements:

a. Shall be ground mounted only.

b. Have a diameter of not greater than ten feet.

c. Shall not extend more than 12 feet above the ground when the dish is aimed toward the horizon.

d. Shall be located behind the main structure.

e. Located not less than six feet from any other property line.

f. Screened from adjacent properties and streets by a landscape buffer or screening fence.

g. Have no lettering, logo or other form of advertising or writing on the face or back of the dish except for the manufacturers name, distributor or seller of the reception dish.

(2) Nonresidential districts. Satellite reception dishes visible from adjacent properties in streets shall comply with the following requirements:

a. Reception dishes shall not exceed 14 feet in diameter.

b. May be ground or roof mounted, however, when aimed toward the

horizon, shall not extend more than 15 feet above the vertical base of the reception dish mount.

c. Shall be located behind all applicable building lines.

d. Shall not contain any lettering, logo or any other form of advertising or other writing on the face or on the back of the reception dish except the name of the manufacturer, distributor or seller of the reception dish.

(3) Special exceptions to above stated requirements for satellite reception dishes. Standards that differ from the above stated regulations may be granted by the Euless Board of Adjustments. The board, in order to grant a variance, shall determine that the lot configuration or physical land features make installation of the satellite reception dish, in conformance with the above stated requirements, impractical. Based upon the specific site, requirements may be placed on the applicant to allow the erection of the reception dish in a manner that would minimize the negative aesthetic impacts on adjacent properties.

(t) Servant's or caretaker's quarters. Accessory buildings are permitted only if located in the rear of a principal building on the same lot and only if conforming with all the yard, open space and off-street parking requirements.

(u) Service stations.

Appropriate and adequate paved and screened temporary holding areas shall be provided to accommodate vehicles waiting to be serviced;

All services, except fuel sales, shall be performed within a completely enclosed building; and

When within 75 feet of a residential use, all refuse and vehicle parts shall be stored within a completely enclosed building or within an areas which is completely visually screened from the view of those residences.

(v) Swimming pool. Exception for private recreation facilities under (p) above.

If located in a residential district, the pool shall be used solely for the enjoyment of the occupants of the principal use of the property on which it is located and their guests.

A pool or pool deck may be located anywhere on the premises except for the following: (1) in a publicly dedicated easement; (2) required front yards; (3) not less than five feet from any structure or lot line; nor, (4) within ten feet of any overhead power lines.

All pools shall be enclosed by a wall or fence with self-locking and self-closing gates.

(w) Zero-lot line dwellings. Walls facing the zero-lot line shall contain no windows, doors or other penetrations and shall have an exterior masonry facade. Either a five-foot

maintenance easement shall be provided for the neighboring property, or the lot line house may be set back five feet from the line and a recreation, planting, and use easement may be granted to the adjacent lot owner.

(x) Businesses dealing in certain novelty items, commonly referred to as “head shops” fall under the category SIC Category of 5912. Specifically, any establishment that sells, distributes or manufactures any specialty or novelty item, unless otherwise permitted by law, which engages in the distribution or manufacturing of any of the following:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived.

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting producing, processing, or preparing controlled substances.

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance.

(4) Testing equipment used, intended for use, or designed for use in weighing or measuring controlled substances.

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances.

(6) Dilutants and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances.

(7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining marijuana.

(8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substance.

(9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances.

(10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances.

(11) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing any controlled substance, including without limitation thereto, marijuana, cocaine, hashish, or hashish oil into the human body, such as:

a. Metal, wooden, acrylic, glass, stone, plastic, or ceramic pipes with or

without screens permanent screens, hashish heads, or punctured metal bowls;

b. Water pipes;

c. Carburetion tubes and devices;

d. Roach clips: meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

e. Miniature cocaine spoons, and cocaine vials;

f. Chamber pipes;

g. Carburetor pipes;

h. Electric pipes;

i. Air-driven pipes;

j. Chillums;

k. Bongs; and/or

l. Ice pipes or chillers.

(12) The terms “controlled substance,” as used herein, shall mean and refer to those substances now or hereafter included as controlled substances under the Texas Controlled Substance Act, Article 447615, V.A.C.S., as amended.

(y) Veterinarians and animal pound located in multi-tenant building shall have proper ventilation and adequate noise attenuation between adjacent lease spaces.

(z) Any outside sales, storage or display shall be located behind the main structure, on a paved surface, and screened from all adjacent properties and streets in accordance with section 84-337, specified herein.

(aa) All items for sale, storage or display shall be located on a paved, all-weather surface unless the use is permitted in that district by way of a specific use permit and the all-weather surface requirement is specifically waved through the approval of the specific use permit.

(ab) It shall be unlawful to sell from a place of business an alcoholic beverage or mixed beverage within 300 feet of any church, public school or public hospital. The measurement of the distance between such place of business and any church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections. The measurement of distance between such place of business and a public school shall be from the

nearest property line of the public school to the nearest doorway by which the public may enter such place of business, along street lines and in direct line across intersections. Provided, however, that the city council may allow variances to the distance regulation as stated herein if the city council determines that enforcement of such regulation in a particular instance is not in the best interest of the public, constitutes waste or inefficient use of land or other resources, creates an undue hardship on an applicant for a license or permit, does not serve its intended purpose, is not effective or necessary, or for any other reason the city council, after consideration of the health, safety and welfare of the public and the equities of the situation, determines is in the best interest of the community.

(ac) Arcade games such as, common but not limited to, pin ball games, video games and other coin operated entertainment machines may be permitted as an incidental use to any use in the commercial districts. No more than five percent of the total floor area of the primary use shall be dedicated for arcade games.

(ad) Drinking establishments located within hotels or motels or motor inns where such drinking establishment is incidental to the primary use of providing lodging shall be considered use by right where hotels are permitted provided such drinking establishment is located within the hotel or motel building except where prohibited by the establishments proximity regulation of this document.

(ae) Sexually oriented businesses. All businesses fitting the definition of sexually oriented business, as defined in this chapter, shall comply with the requirements of section 84-183 and the licensing requirements of chapter 18, article III of Code.

(af) Private street developments. All private street developments shall be processed through the specific use permit or planned development procedure. Authority to approve a private street development shall lie solely with the city council. The following standards shall apply to all private street developments:

(1) Approval criteria. In addition to the specific use permit (SUP) “conditions of permit approval” specified in section 84-153 of this Code, the following additional approval criteria must be found to exist:

a. The proposed development is zoned as residential or planned development zoning district.

b. The proposed development is bounded on all sides by natural or manmade barriers (with no reasonable connection with another residential parcel).

c. The proposed development shall not impede the current or future development of a thoroughfare.

d. The proposed development shall not disrupt an existing or proposed public pedestrian pathway, hike and bike trail or park.

(2) General design standards. The private street system shall:

a. Comply with construction design standards for public streets as specified in section 84-442 of this Code.

b. Provide access for emergency vehicles, public and private utility maintenance and service personnel, the U.S. Postal Service, and government employees in pursuit of their official duties.

c. Each private street development shall contain the following wording on the face of the plat and in the required property owners association documents:

The streets have not been dedicated to the public, for public access nor have they been accepted by the city as public improvements. They shall be maintained by the property owners within the subdivision, but shall always be open to emergency vehicles, public and private utility maintenance and service personnel, the U.S. Postal Service, and governmental employees in pursuit of their official duties.

A property owners association is required to maintain the private streets. All property owners shall be members of said association.

The property owners association (the “association”) agrees to release, indemnify, defend, and hold harmless the city and any governmental entity or public utility that owns public improvements within this subdivision (collectively, the “indemnitees”) from and against any claims for damages to the streets, restricted access gates and entrances, and related appurtenances (collectively, the “streets”) caused by the reasonable use of the streets by the indemnitees. This paragraph does not apply to damages to the streets caused by the design, construction, or maintenance, of any public improvements owned by any of the indemnitees.

The association agrees to release, indemnify, defend, and hold harmless the indemnitees from and against any claims for damages to property and injury to persons (including death) that arise out of the use of the streets by the indemnitees and that are caused by the failure of the association to design, construct, or maintain the streets in accordance with city standards. The indemnification contained in this paragraph 2 shall apply regardless of whether a contributing factor to such damages or injury was the negligent acts or omissions of the indemnitees or their respective officers, employees, or agents.

Each lot owner agrees to release the indemnitees from claims for damages to property and injury to persons (including death) that arise out of the use of the streets by the indemnitees and that are caused by the failure of the association to design, construct, or maintain the streets in accordance with city standards.

The obligations of the association and lot owners set forth in the above paragraphs shall immediately and automatically terminate when the streets and other rights-of-way have been dedicated to and accepted by the city.

d. Private streets shall be located in a "public utility and storm sewer easement." The width of the easement shall be the same as the required right-of-way for a public street, unless a variable street width has been approved by city council through the planned development procedure. Centered in the "public utility and storm sewer easement" shall be an "access easement" equal in width to the paved private street.

e. All private street developments shall have a minimum of one point of access to a public street. Said access points shall be designed to provide adequate stacking of vehicles, have a turnaround to allow vehicles denied access room to maneuver into a "head out" position when exiting onto a public street. Entrances are to be a minimum of 25 feet in width.

(3) Property owners association. Private street systems shall be the responsibility of all the property owners within the addition and shall be subject to all the following requirements:

a. Subdivisions with private streets shall have a property owners association. The association shall be responsible for the maintenance of private streets and appurtenances. The association documents must be acceptable to the city at the time of preliminary plat approval. The approved document shall be executed and filed for record contemporaneously with the filing of the final plat.

b. Every owner of a lot within the private street development shall be a member of the property owners association.

c. The association documents shall address, but not be limited to, the following:

1. The association documents must indicate that the streets within the development are private, owned and maintained by the association, and that the city has no obligation to maintain the private streets.

2. The association documents shall include a statement indicating that the city may, but is not obligated to, inspect private streets and require repairs, as deemed necessary.

3. The association may not be dissolved without the prior written consent of the city.

d. The documents establishing the association shall give the city the right to assess each lot within the private street development for the payment of bills for private infrastructure repairs made by or under contract with the

city, not paid by the association.

e. No portion of the association documents pertaining to the maintenance of the private streets may be amended without the written consent of the city.

f. The association documents shall contained a provision that assures access to emergency vehicles, utility personnel, the U.S. Postal Service, and governmental employees in pursuit of their official duties.

(ag) Limited access residential developments. All limited access or "gated" residential developments shall be processed through the specific use permit or planned development procedure. Authority to approve a limited access residential development shall lie solely with the city council. The following standards shall apply to all limited access residential or gated developments and shall be illustrated on the PD (planned development) or SUP (specific use permit) site plan:

(1) All gates shall be located solely on private property.

(2) Emergency services access shall be designed, equipped and permitted as provided for in section 34-105(10) of the Code.

(3) All gates and their associated drive accesses shall accommodate residents, guests, deliveries, employees, U.S. Postal Service, government and utility personnel in pursuit of their duties without significantly impeding traffic movement on public thoroughfares. The minimum number, location and design of each entrance/exit shall accommodate peak travel times for both the surrounding public streets and for the development being served and shall also be designed in consideration of long range traffic forecasts, the type and speed of the gate opening system being used and the number of dwelling units being served. A turnaround shall be provided for vehicles denied access to be able to exit onto a public street in a "head out" fashion.

(4) A traffic impact analysis showing the impact the limited access may have on surrounding streets may be required. No limited access development shall be approved that unduly negatively impacts public streets.

(5) Visitors access shall be provided in the following manner: At least one gate shall be equipped for visitors access. Said visitor access shall provide for a call or code box located a minimum of 30 feet from the property line to provide for visitors calling in and automobile queuing. An entry turnaround with a minimum outside radius of 30 feet shall be provided behind the call or code box for vehicles denied access to be able to maneuver into a "head out" position onto a public street with minimum disruption to other vehicles at the entrance.

(6) Residents' access shall be provided in the following manner: There shall be not less than one exit designed for residents use for each 200 dwelling units. Said residents' exits shall be equipped with automated gates that allow for egress on demand.

There shall be not less than one entrance designed for residents' use for every 300 dwelling units. One residents' entrance may be the same as the visitors' entrance. Said residents' ingress shall be equipped with an electronic opener and activated remotely.

Remote controls that use a key, card or require a code to be keyed in by the residents shall be set back a minimum of thirty feet inside the property line to provide for one resident to use the key entry and queuing for one additional vehicle.

A residence entrance used in combination with a guest entrance shall provide for the queuing of not less than two vehicles, not including the vehicle using the remote control box. No additional queuing is required of the remote control to open the gate is normally activated by mobile device enabling the resident to enter the premises without have to stop and enter a code, card or key.

(7) Parking shall be provided in accordance with the use group which the proposed use most closely resembles, as determined by the administrator.

(ah) Auto or vehicle sales lots. The minimum area devoted to the sale of new or used auto, truck, trailer, recreational vehicles, boat or other motor vehicles shall be maintained at not less than five acres.

(ai) Telecommunication facilities. Specifically, notwithstanding any other provision of this subsection, telecommunication antennas and/or towers, when such are permitted by federal law and the laws of the State of Texas, shall be regulated and governed by the following use regulations and requirements:

(1) For purpose of this section the following words and phrases are defined as follows:

Antenna means any exterior transmitting or receiving device mounted on or within a support structure, building, or structure and used in communications that radiate or collect electromagnetic waves, digital signals, analog signals, radio frequencies, (excluding radar signals), wireless telecommunication signals, television signals, or other communication signals.

Antenna array means a structure attached to a telecommunication tower that supports a telecommunication antenna.

EIA-222 means Electronics Industries Association Standard 222, "Structural Standards for Steel Antenna Towers and Antenna Support Structures".

Telecommunication antenna means an antenna used to provide a telecommunication service.

Telecommunication facilities means any unmanned facility consisting of equipment for the transmission, switching, and/or receiving of wireless

communications. Such facility may be elevated (either structure-mounted or ground mounted) transmitting and receiving antennas, low power mobile radio service base station equipment, and interconnection equipment. The categories of facility types include both roof and/or structure-mount facilities and telecommunication support structure.

Telecommunication tower means a structure more than ten feet tall, built primarily to support one or more telecommunication antennas.

Whip antenna means an antenna consisting of a single, slender, rod like element which is no more than six inches in diameter and supported only at or near its base.

Non-whip antenna means an antenna which is not a whip antenna, such as dish antennas, panel antennas, etc.

(2) Telecommunication facilities-Antennas/towers.

a. A site plan shall be submitted pursuant to said section 84-84 and the following requirements:

1. Submit a site plan, drawn to scale, indicating the location and height of all components of the facility, potential locations of ground-mounted equipment necessary to support future wireless providers, and the distance from other structures on the same and adjacent properties to include a radius equal to the required setback.

2. All towers will be of a tapering monopole construction, except that another type tower shall only be allowed upon a showing that it would cause less visual impact on surrounding property than a similar monopole structure.

3. The applicant shall provide an architects rendering, photo-realistic representation, or other true visual representation of the actual tower.

4. Tower height, including antenna array, may not exceed 120 feet.

5. Telecommunication towers must be a minimum of 200 feet or three to one distance to height ratio, whichever is greater.

6. New telecommunication towers must be a minimum distance of 5,000 feet from another telecommunication tower, including from those towers located in an adjacent municipality. The service provider must provide information that identifies other facilities that are owned by the service provider.

7. All guys and guy anchors are located within the buildable area of

the lot and not within the front, rear, or sideyard setbacks and no closer than five feet to any property line.

8. The base of the tower and equipment buildings must be screened by a masonry wall consistent with section 84-336(b)(4).

9. A telecommunication tower must be:

   i. Used by three or more wireless communication providers; or

   ii. Designed and built so as to be capable of use by three or more wireless communication providers and the owner of the tower and the property on which it is located must certify to the city that the antenna is available for use by another wireless telecommunication provider on a reasonable and nondiscriminatory basis and at a cost not exceeding the market value for the use of the facilities. If the property on which the tower is proposed to be located is to be leased, the portions of the actual or proposed lease that demonstrate compliance with the requirements of this paragraph shall be submitted with the zoning application.

b. Telecommunication towers should be constructed to minimize potential safety hazards. Telecommunication towers shall be constructed so as to meet or exceed the most recent EIA-222 standards and prior to issuance of a building permit the building official shall be provided with an engineer's certification that the tower's design meets or exceeds those standards. Guyed towers shall be located in such a manner that if the structure should fall along its longest dimension, it will remain within property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication towers.

c. If any additions, changes, or modifications are to be made to the monopole, the building official shall verify that such changes meet all applicable conditions contained in the original S.U.P. enabling construction of the monopole and shall have the authority to require proof, through the submission of engineering and structural data, that the addition, change, or modification conforms to structural wind load and all other requirements of the current building code adopted by the City of Euless.

d. Telecommunication towers which have not been used for a period of one year shall be removed from a site. The last telecommunication service provider to use a tower shall notify the building official or designee within 30 days that use of a tower has been discontinued.

e. In addition to the usual application fee for a specific use permit, the applicant shall reimburse the city for the actual cost to the city for the services of an engineer to review the application and provide engineering

expertise, or other related professional services required to verify any information provided by the applicant, in the amount as set forth in section 30-46, “telecommunication facilities contract fees.”

f. The tower is erected and operated in compliance with current Federal Communication Commission and Federal Aviation Administration rules and regulations and other applicable federal and state standards.

(3) Telecommunication facilities–Antennas mounted on existing structures.

a. Antennas mounted on buildings.

1. Roof-mounted telecommunication antennas are allowed on nonresidential buildings in all zoning districts without further zoning proceedings, provided a non-whip antenna does not exceed the height of the building by more than ten feet and is screened from view from any adjacent public roadway and provided a whip antenna does not exceed the height of the building by more than 15 feet and is located no closer than 15 feet to the perimeter of the building. Prior to installation of a roof-mounted antenna, the building official shall be provided with an engineer’s certification that the roof will support the proposed antenna and associated roof-mounted equipment. Roof-mounted antennas and associated equipment must be screened with enclosures or facades having an appearance that blends with the building on which they are located.

2. Building-mounted telecommunication antennas of the non-whip type are allowed on nonresidential buildings in all zoning districts without further zoning proceedings, provided the antenna is mounted flush with the exterior of the building so that it projects no more than 30 inches from the surface of the building to which it is attached; and the antenna’s appearance is such as to blend with the surrounding surface of the building.

3. Associated equipment shall be placed either within the same building or in a separate building which matches the existing building in character and building materials or blends with the landscaping and other surroundings immediately adjacent to the separate building housing the equipment. Associated equipment for roof-mounted antennas may be located on the roof of the building if screened with enclosures or facades having an appearance that blends with the building on which they are located.

b. Telecommunication antennas located on existing structures are not subject to the 5,000-foot separation requirement.

c. When an application for a building permit to locate a telecommunication antenna on an existing building or other structure is made, the building official shall be provided with color photo simulations showing the site of

the existing structure with a photo-realistic representation of the proposed antenna and the existing structure or any proposed reconstruction of the structure as it would appear viewed from the closest residential property and from adjacent roadways. The applicant shall also submit photographs of the same views showing the current appearance of the site without the proposed antenna.

d. Telecommunication antennas shall not be constructed or used within the City of Euless without all approvals and permits first having been secured.

(aj) Transient dwellings. Specifically, notwithstanding any other provision of this subsection, transient dwellings, when such are permitted by federal law and the laws of the State of Texas, shall be regulated and governed by the following use regulations and requirements:

(1) For purpose of this section the following words and phrases are defined as follows:

Bedroom means an enclosed space in a structure that is designed such that it could be used for sleeping purposes and meets the room dimension requirements of the most recent edition of the Uniform Building Code, is not accessed directly from the garage, and has one or more windows.

Block means a tract of land bounded by streets, public parks, railroad rights-of-way, shorelines of waterways or corporate limits.

Boarding or roominghouse means an establishment, other than eleemosynary or other nonprofit institution, primarily engaged in renting rooms, with or without board, on a fee basis, to four or more persons not related by blood, marriage, or adoption.

Disability, alcohol or drug dependence means a person is considered disabled due to alcohol or drug dependence if they meet the definition of disability, generally and the person is unable to maintain abstinence and recovery in an available independent living situation. A person with an alcohol or drug dependence disability is eligible to reside in a parolee-probationer home or residential care facility if:

a. The person has been diagnosed as suffering from alcohol or drug dependence;

b. The person has completed a course of alcoholism or drug dependency treatment in an inpatient or outpatient setting;

c. The person has been determined to be unable to abstain from alcohol or drugs without continued care in a structured setting; and

d. Is in need of alcoholism or drug dependency services on an

outpatient basis in addition to the structured group residential setting of a parolee-probationer home or residential care facility.

Disability generally means as more specifically defined under the fair housing laws, a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who is regarded as having that type of impairment, or a person who has a record of that type of impairment, not including current, illegal use of a controlled substance.

Fair housing laws means the Federal Fair Housing Act, the Americans with Disabilities Act, and the Texas Fair Housing Act, as each Act may be amended from time to time, and each Act's implementing regulations.

Group residential means shared living quarters, occupied by two or more persons not living together as a single housekeeping unit. This classification includes, without limitation, boarding or rooming houses, dormitories, fraternities, sororities, and private residential clubs, but excludes residential care facilities (general, small licensed, and small unlicensed) and residential hotels.

Individual with a disability means an individual who meets the definition of disability under the fair housing laws.

Integral facilities means any combination of two or more residential care facilities that may or may not be located on the same or contiguous parcels of land, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation shall be referred to as integral facilities and shall be considered one facility for purposes of applying federal, state and local laws to its operation. Examples of such integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants in more than one licensed or unlicensed facility.

Integral uses means any two or more licensed or unlicensed residential care programs commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two or more care programs participate simultaneously in any care or recovery activities so commonly administered. Any such integral use shall be considered one use for purposes of applying federal, state and local laws to its operation.

Parolee-probationer includes:

a. Any individual who has been convicted of prohibited criminal conduct, and received conditional and revocable release in the community under the supervision of a federal parole officer;

b. Any individual who has been convicted of prohibited criminal conduct, and who is serving a period of parole or community supervision, as defined in Chapter 42 of the Texas Code of Criminal Procedure;

c. An adult or juvenile who has been found to have engaged in delinquent conduct or conduct indicating a need for supervision where said conduct would be considered prohibited criminal conduct, had the adult or juvenile been tried as an adult, and who is serving a period of parole or other applicable community supervision; and

d. Any individual who has been convicted of prohibited criminal conduct and is under the jurisdiction of any federal, state, or county parole or probation officer.

Parolee-probationer home means any residential structure or unit, whether owned and/or operated by an individual or a for-profit, nonprofit, governmental or nongovernmental organization, regardless of whether it is regulated by Chapter 464 of the Texas Health and Safety Code, which houses two or more parolees and/or probationers unrelated by blood, marriage, or legal adoption, in exchange for monetary or nonmonetary consideration given and/or paid by the parolee-probationer and/or any public or private entity or person on behalf of a parolee-probationer.

Prohibited criminal conduct means prohibited criminal conduct includes those crimes defined as “violent crimes” or “property crimes” by the Federal Bureau of Investigation’s Uniform Crime Report, 2006, and those crimes defined as “drug-defined offenses” or “drug-related offenses” by the Bureau of Justice Statistics Drug and Crime Data Fact Sheet, 1994, for which punishment would be classified as a felony as set forth in section 12.04 of the Texas Penal Code, or for which punishment would be classified as class A misdemeanor as set forth in section 12.03 of the Texas Penal Code.

Residential care facility means any place, site or building, or group of places, sites or buildings, regardless of whether it is regulated by Chapter 464 of the Texas Health and Safety Code, in which five or more individuals with a disability reside who are not living together as a single housekeeping unit and in which every person residing in the facility (excluding facility staff) is an individual with a disability. A parolee-probationer may not reside in a residential care facility.

Single housekeeping unit means the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities such as meals, chores, household maintenance, and expenses, and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of

the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Transient dwelling means a single-family attached, single-family cluster, single-family detached, single-family manufactured, single-family townhouse or zero lot line dwelling, as those terms are defined herein, which is used as a transient dwelling. A dwelling shall be considered a transient dwelling:

a. If the dwelling is not a single housekeeping unit, and is operated or used in such a way that it has a turnover in occupancy of more than six times in any continuous 12-month period, it shall create a rebuttable presumption that such dwelling is a transient dwelling.

(2) Reasonable accommodation requests.

a. Purpose. In accordance with federal and state fair housing laws, it is the purpose of this chapter to provide reasonable accommodations in the city's zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling.

b. Review authority. The city manager, or his designated representative, is hereby designated to approve, conditionally approve, or deny all applications for a reasonable accommodation. If the project for which the request for reasonable accommodation is made requires another discretionary permit or approval, then an applicant may request that the city manager hear the request for a reasonable accommodation at the same time as the other discretionary permit or approval. If the applicant does not request a simultaneous hearing, then the request for reasonable accommodation shall not be heard until after a final administrative decision has been made regarding all discretionary permits or approvals required by any federal or state law or local ordinance.

c. Application for a reasonable accommodation.

1. Applicant. A request for reasonable accommodation may be made by any person with a disability, their representative, or a developer or provider of housing for individuals with a disability. A reasonable accommodation may be approved only for the benefit of one or more individuals with a disability.

2. Application. An application for a reasonable accommodation from a zoning regulation, policy, or practice shall be made on the form provided by the planning department. No fee shall be required for a request for reasonable accommodation, but if the project requires discretionary permit(s), then the prescribed fees for said permit(s) shall be paid by the applicant or the applicant's representative. An

application for reasonable accommodation shall not be unreasonably withheld.

3. Required submittals. In addition to materials required under other applicable provisions of this Code, an application for reasonable accommodation shall include the following:

i. Documentation that the applicant is:

A. An individual with a disability;

B. Applying on behalf of one or more individuals with a disability; or

C. A developer or provider of housing for one or more individuals with a disability.

ii. The specific exception or modification to the zoning, subdivision or other land use provision, policy or practice requested by the applicant.

iii. Documentation that the specific exception or modification requested by the applicant is reasonable and necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy the residence.

iv. Any other information that the planning director reasonably concludes is necessary to determine whether the finding required by section 84-85(aj)(3)a. below can be made, so long as any request for information regarding the disability of the individuals benefited complies with applicable federal law and the privacy rights of the individuals affected.

(3) Decision.

a. City manager action and appeals. The city manager shall issue a written determination to approve, conditionally approve, or deny a request for reasonable accommodation, and the modification or revocation thereof in compliance with section 84-85(aj)(2)b. above within 14 days of the date of receipt of a completed request for reasonable accommodation, which shall be served on the applicant in person or by certified United States mail. If the city manager's written determination is not made within the time limits provided herein, the applicant's request for a reasonable accommodation shall be deemed granted. In the event of appeal of the city manager's written determination, applicants shall file with the city secretary a notice of appeal on the form provided by the city no later than 14 days following the date the city manager issues a written determination. Notices of appeal filed after that date shall be considered untimely and the city manager's written determination shall be considered

a final determination. The standard of review on appeal shall be de novo appeal to the city council. The city council, acting as the appellate body, may sustain, reverse or modify the decision of the city manager or remand the matter for further consideration, which remand shall include specific issues to be considered by the city manager. A final decision regarding an applicant's appeal of the city manager's written determination regarding a reasonable accommodation shall be made within 30 days after the date the city receives an applicant's notice of appeal, which shall be served on the applicant in person or by certified United States mail. If the city council does not issue a final decision regarding an applicant's appeal of the city manager's written determination regarding a reasonable accommodation, the applicant's request for a reasonable accommodation shall be deemed granted.

b. Findings. The written decision to approve, conditionally approve, or deny a request for reasonable accommodation shall be based on the following findings, all of which are required for approval:

1. The requested accommodation is requested by or on the behalf of one or more individuals with a disability protected under the Fair Housing Laws or other applicable federal or state law.

2. The requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.

3. The requested accommodation will not impose an undue financial or administrative burden on the city as "undue financial or administrative burden" is defined in Fair Housing Laws, interpretive case law, or other applicable federal or state law.

4. The requested accommodation will not result in a fundamental alteration in the nature of the city's zoning program, as "fundamental alteration" is defined in Fair Housing Laws, interpretive case law, or other applicable federal or state law.

5. The requested accommodation will not, under the specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.

In making these findings, the decision-maker may approve alternative reasonable accommodations which provide an equivalent level of benefit to the applicant.

c. The city may consider, but is not limited to, the following factors in determining whether the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.

1. Whether the requested accommodation will affirmatively enhance the quality of life of one or more individuals with a disability.

2. Whether the individual or individuals with a disability will be denied an equal opportunity to enjoy the housing type of their choice absent the accommodation.

3. In the case of a residential care facility, whether the requested accommodation is necessary to make facilities of a similar nature or operation economically viable in light of the particularities of the relevant market and market participants.

4. In the case of a residential care facility, whether the existing supply of facilities of a similar nature and operation in the community is sufficient to provide individuals with a disability an equal opportunity to live in a residential setting.

d. The city may consider, but is not limited to, the following factors in determining whether the requested accommodation would require a fundamental alteration in the nature of the city's zoning program.

1. Whether the requested accommodation would fundamentally alter the character of the neighborhood.

2. Whether the accommodation would result in a substantial increase in traffic or insufficient parking.

3. Whether granting the requested accommodation would substantially undermine any express purpose of either the city's master/comprehensive plan.

4. In the case of a residential care facility, whether the requested accommodation would create an institutionalized environment due to the number of and distance between facilities that are similar in nature or operation.

e. Rules while decision is pending. While a request for reasonable accommodation is pending, all laws and regulations otherwise applicable to the property that is the subject of the request shall remain in full force and effect.

f. Effective date. No reasonable accommodation shall become effective until the decision to grant such accommodation shall have become final by reason of the expiration of time to make a written determination or appeal, as applicable. In the event an appeal is filed, the reasonable accommodation shall not become effective until a final decision is made by the city council on such appeal under the provisions of section 84-85(aj)(3)a. above, or until the expiration of time to issue a final decision, as applicable.

(4) Expiration, time extension, violation, discontinuance and enforcement.

a. Expiration. Any reasonable accommodation approved in accordance with the terms of this chapter shall expire within 24 months from the effective date of approval or at an alternative time specified as a condition of approval unless:

1. A building permit has been issued and construction has commenced;

2. A certificate of occupancy has been issued;

3. The use is established; or

4. A time extension has been granted.

b. Time extension. The city manager may approve a time extension for a reasonable accommodation for good cause for a period not to exceed 24 months. An application for a time extension shall be made in writing to the planning director no less than 30 days or more than 90 days prior to the expiration date. There is no limit on the number of extensions that may be granted so long as the use established is continuous and uninterrupted and the reasonable accommodation remains reasonably necessary to provide disabled individuals with an equal opportunity to use and enjoy the dwelling in question.

c. Notice. Notice of the city manager's or city council's decision, as applicable, shall be provided as specified in section 84-85(aj)(3)a. above. All written decisions shall give notice of the right to appeal and to request reasonable accommodation in the appeals process as set forth in section 84-85(aj)(4)d. below.

d. Appeal of determination. A decision regarding a request for a time extension for a reasonable accommodation shall be final unless appealed to the city council within 14 calendar days of the date of mailing of the determination. An appeal shall be made in writing and shall be noticed and heard pursuant to the procedures established in section 84-85(aj)(3)a. above.

e. Violation of terms. Any reasonable accommodation approved in accordance with the terms of this Code may be revoked if any of the conditions or terms of such reasonable accommodation are violated, or if any law or ordinance is violated in connection therewith.

f. Discontinuance. A reasonable accommodation shall lapse if the exercise of rights granted by it is discontinued for 90 consecutive days. If a disabled person initially occupying a residence for which a reasonable accommodation has been granted vacates the residence, the reasonable

accommodation shall remain in effect only if the planning director determines that:

1. The reasonable accommodation is physically integrated into the residential structure and cannot easily be removed or altered to comply with the Code; or

2. The reasonable accommodation is necessary to give another disabled individual an equal opportunity to enjoy the dwelling.

Within 30 days of occupying the residence in question, the disabled person replacing the vacating disabled person shall provide to the planning director documentation establishing that he or she is a person with a disability who would otherwise qualify for the reasonable accommodation already in effect. Failure to provide such documentation within 30 days of occupying the residence in question shall constitute grounds for discontinuance of a previously approved reasonable accommodation.

g. Enforcement. If the established use for which a reasonable accommodation granted under this Code is discontinued, or the applicant violates the terms of the reasonable accommodation, the city attorney on behalf of the city may institute an injunction, mandamus, abatement, or other appropriate action to prevent, abate, remove or enjoin the violation of this chapter.

(5) Revocation proceedings.

a. Proceedings to revoke a reasonable accommodation granted by the city shall be initiated by the city manager by giving the notice of a public hearing as provided in section 84-85(aj)(5)b. below. Not less than ten days prior to the public hearing, the city manager shall issue a written recommendation to revoke a reasonable accommodation, explaining the reasons for said recommendation, which shall be served on the applicant by posting it in a conspicuous place on the property in question and by mailing it to the applicant by certified United States mail. The city council, acting as the reviewing body, may sustain, reverse or modify the decision of the city manager or remand the matter for further consideration, which remand shall include specific issues to be considered by the city manager. The city council may also hear statements and other evidence at the public hearing, in compliance with applicable open meetings law. A written final decision regarding revocation of a reasonable accommodation shall be made within 30 days after the date of the public hearing, which shall be served on the applicant in person or by certified United States mail. If the city council does not issue a final decision regarding revocation of a reasonable accommodation, the reasonable accommodation shall remain in effect.

b. Notice of proceedings. The city manager shall fix a time and a place for a

public hearing, and give public notice thereof by mailing notice to owners of all property within a distance of 300 feet of the exterior boundaries of property described in the application, using addresses from the last-adopted tax roll; or by publication in a newspaper of general circulation and posting said notice in conspicuous places close to the property. Such notice shall be given not less than ten days before the date of the public hearing.

(6) Amendments. A request for changes in conditions of approval of a reasonable accommodation, or a change to plans that would affect a condition of approval shall be treated as a new application. The planning director may waive the requirement for a new application if the changes are minor, do not involve substantial alterations or addition to the plan or the conditions of approval, and are consistent with the intent of the original approval.

(ak) Non-depository financial institution. No non-depository financial institution as defined in Section 84-7 may be located within 1,000 feet of another non-depository financial institution; or within 500 feet of the right-of-way of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10 or FM 157/Industrial Boulevard; or within 500 feet of any zoning which allows residential uses by right.

(1) Measurement. For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects:

a. From the nearest portion of the property line of the premises where the existing business is located to the nearest portion of the property line of the premises where the new business is proposed;

b. From the nearest portion of the right-of-way line of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10 or FM 157/Industrial Boulevard to the property line of the premises where the new business is proposed; or

c. From the nearest portion of any zoning classification which permits residential uses by right to the property line of the premises where the new business is proposed.

(2) Nonconformity. A non-depository financial institution that existed and was lawfully constructed, located and operating on the date of this subsection 84-85[ak], and that does not conform to zoning district and/or separation distance standards adopted herein shall be deemed a nonconforming use and may continue in operation subject to the provisions in article III of chapter 84 and the provisions set forth below:

a. If a non-depository financial institution ceases operations at a particular location, a new certificate of occupancy shall not be issued for a new non-depository financial institution at that location without first complying with all the requirements of this subsection 84-85(ah).

b. The ability to continue a non-conforming non-depository financial institution shall cease and such use shall terminate whenever either of the following occur:

1. A certificate of occupancy for a change of owner, occupant, tenant, or business is required.

2. The certificate of occupancy for the use is relinquished, canceled, or terminated in accordance with other applicable ordinances.

(al) Tattoo and/or body modification studio. No tattoo and/or body modification studio as defined in section 84-7 may be located within 1,000 feet of another tattoo and/or body modification shop; or within 500 feet of the right-of-way of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10 or FM 157/Industrial Boulevard; or within 500 feet of any zoning which allows residential uses by right.

(1) Measurement. For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects:

a. From the nearest portion of the property line of the premises where the existing business is located to the nearest portion of the property line of the premises where the new business is proposed;

b. From the nearest portion of the right-of-way line of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10 or FM 157/Industrial Boulevard to the property line of the premises where the new business is proposed; or

c. From the nearest portion of any zoning classification which permits residential uses by right to the property line of the premises where the new business is proposed.

(2) Nonconformity. A tattoo and/or body modification studio that existed lawfully on the date the use commenced; and that does not conform to zoning district and separation distance standards shall be deemed a nonconforming use.

a. If a tattoo and/or body modification studio ceases operations at a particular location, a new certificate of occupancy shall not be issued for a new tattoo and/or body modification studio at that location without first complying with all the requirements of this subsection 84-85[al].

b. The ability to continue a nonconforming tattoo and/or body modification studio shall cease and such use shall terminate whenever either of the following occur:

1. A certificate of occupancy for a change of owner, occupant, tenant, or business is required.

2. The certificate of occupancy for the use is relinquished, canceled,

or terminated in accordance with other applicable ordinances.

(am) Tobacco products store. No tobacco products stores may be located within 1,000 feet of another tobacco products store; or within 500 feet of the right-of-way of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10; or FM 157/Industrial Boulevard or within 500 feet of any zoning which allows residential uses by right.

(1) Measurement. For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects:

a. From the nearest portion of the property line of the premises where the existing business is located to the nearest portion of the property line of the premises where the new business is proposed;

b. From the nearest portion of the right-of-way line of Airport Freeway/SH 183 or SH 121, or Euless Boulevard/SH 10 or FM 157/Industrial Boulevard to the property line of the premises where the new business is proposed; or

c. From the nearest portion of any zoning classification which permits residential uses by right to the property line of the premises where the new business is proposed.

(2) Nonconformity. A tobacco products store that existed and was lawfully constructed, located and operating on the effective date of this subsection 84-85(am), and that does not conform to zoning district and/or separation distance standards adopted herein shall be deemed a nonconforming use and may continue in operation subject to the provisions in article III of chapter 84 and the provisions set forth below:

a. If a tobacco products store ceases operations at a particular location, a new certificate of occupancy shall not be issued for a new tobacco products store at that location without first complying with all the requirements of this subsection 84-85(am).

b. The ability to continue a nonconforming tobacco products store shall cease and such use shall terminate whenever either of the following occur:

1. A certificate of occupancy for a change of owner, occupant, tenant, or business is required.

2. The certificate of occupancy for the use is relinquished, canceled, or terminated in accordance with other applicable ordinances.

(Ord. No. 1133, § 1(4-500(1)), 3-22-94; Ord. No. 1148, § II, 8-9-94; Ord. No. 1177, §§ IV, VI, 5-23-95; Ord. No. 1232, § 2, 4-8-97; Ord. No. 1236, § 1, 8-26-97; Ord. No. 1609, § 3, 10-28-03; Ord. No. 1690, §§ I, II, 5-31-05; Ord. No. 1826, § 2, 9-9-08; Ord. No. 1833, § 7, 10-28-08; Ord. No. 1977, § 3, 11-13-12; Ord. No. 1978, § 3, 11-13-12; Ord. No. 1976, § 3, 11-27-12; Ord. No.

1981, § 1, 12-11-12)

Sec. 84-86 Exceptions to conditions

Exceptions to these conditions may be made by council on a case-by-case basis by the granting of a special use permit. Approved council exceptions shall become null and void should no building permit be issued within 90 days of approval.

(Ord. No. 1133, § 1(4-500(2)), 3-22-94)

Secs. 84-87–84-99 Reserved

Division 2. District Regulations

Sec. 84-100 Established

This division lists the purpose, general description of the permitted primary uses, the district site development standards and any additional requirements applicable throughout the zoning district.

All properties are subject to the district regulation which specify certain minimums and maximums permitted within the zoning district. Except as otherwise specifically provided in this chapter, no structure shall be erected or maintained which does not comply with these standards.

(Ord. No. 1133, § 1(4-600), 3-22-94)

Sec. 84-101 "R-1C" single-family custom dwelling district

(a) Purpose. Detached housing designed as a move up from first and second time home buyers; located on moderately large lots; curvilinear streets; well landscaped; masonry walls along arterial; landscaping addition entry; owners association required to be set up; architecturally treated street lighting, underground utilities, unified streetscape treatments; neighborhood parks and focal points; no through traffic; large setbacks; garages at rear of the units; steep roof pitches; all masonry; most units will have built in pools.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached dwellings (using R-1C district requirements).

Accessory buildings to main use.

Home occupations.

Schools, parks, playgrounds.

(c) District development standards.

(1) Minimum lot area–10,000 square feet.

(2) Minimum lot width–100 feet.

(3) Minimum floor area–2,500 square feet.

(4) Minimum front yard–30 feet.

(5) Minimum rear yard–25 feet.

(6) Minimum side yard.

a. Interior side yards–Ten feet.

b. Corner lot–15 feet on street side; fences greater than 36 inches in height shall be setback a minimum of 15 feet for side lot line.

(7) Maximum building coverage–40 percent of lot.

(8) Minimum roof pitch–8:12.

(9) Maximum height limit–two and one–half stories or 35 feet.

(10) Minimum exterior facade–90 percent masonry facade on all wall elevations.

(11) Minimum off–street parking–see article V.

(12) Signs–see article VI.

(13) Minimum landscaping and screening–see article VII.

(14) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(15) Site plan approval requirements–none for one- or two-family dwellings-see article VIII.

(Ord. No. 1133, § 1(4-601), 3-22-94; Ord. No. 1225, § 3, 12-12-96; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-102 "R-1" single-family detached dwelling district

(a) Purpose. This district comprises the preponderant portion of the existing housing development in the City of Euless and is considered to be the proper classification for large areas of the undeveloped land remaining in the city appropriate for single-family use. This district is intended to be composed of single-family dwellings together with the public schools, churches and public parks essential to create basic neighborhood units. Such areas should be consistent and compatible with existing residential neighborhood patterns and be properly protected from more intensive development and the encroachment of incompatible uses.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached dwellings (using R-1, or R-1C district requirements).

Accessory buildings to main use.

Home occupations.

Schools, parks, playgrounds.

(c) District development standards.

(1) Minimum lot area–7,500 square feet.

(2) Minimum lot width–65 feet.

(3) Minimum living floor area–1,700 square feet

(4) Minimum front yard–25 feet.

(5) Minimum rear yard–15 feet.

(6) Minimum side yard.

a. Interior side yards–four feet on one side, nine feet on the other.

b. Corner lot–15 feet on street side; fences greater than 36 inches in height shall be setback a minimum of 15 feet for side lot line.

c. No permanent fixture, including but not limited to air conditioner condensing units, shall be placed in side yards of less than seven feet unless permission therefore shall have been obtained from the planning and development department of the city.

(7) Maximum building coverage–40 percent of lot.

(8) Maximum height limit–two and one-half stories or 35 feet.

(9) Minimum roof pitch–6:12.

(10) Minimum exterior facade–90 percent masonry facade on all wall elevations.

(11) Minimum off-street parking–see article V.

(12) Signs–see article VI.

(13) Minimum landscaping and screening–see article VII.

(14) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(15) Site plan approval requirements–none for one- or two-family dwellings. See article

VIII.

(Ord. No. 1133, § 1(4-602), 3-22-94; Ord. No. 1225, § 4, 12-12-96; Ord. No. 1320, § I, 4-14-98; Ord. No. 1476, § 1, 7-24-01; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-103 "R-1L" single-family limited dwelling district

(a) Purpose. Detached housing designed for small families and singles; located on limited sized lots; houses cluster together and consolidated open space, for neighborhood parks and focal points, typically around natural settings; curvilinear streets or private streets; security/key code entry; well landscaped; masonry walls and iron fences; owners association; architecturally treated street lighting, underground utilities, unified streetscape treatments; no through traffic; small setbacks; front load garages, enclosures prohibited by deed restrictions; steep roof pitches; all masonry; neighborhood pools and facilities.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached dwellings (using R-1C, or R-1 district requirements).

Accessory buildings to main use.

Home occupations.

Schools, parks, playgrounds.

(c) District development standards.

(1) Maximum density–four dwelling units/acre.

(2) Minimum lot area–5,500 square feet

(3) Minimum lot width–50 feet.

(4) Minimum living floor area–1,700 square feet

(5) Minimum front yard–20 feet.

(6) Minimum rear yard–15 feet.

(7) Minimum side yard.

a. Interior side yards–five feet on one side, five feet on the other.

b. Corner lot–15 feet on street side; fences greater than 36 inches in height shall be setback a minimum of 10 feet for side lot line.

c. No permanent fixture, including but not limited to air conditioner condensing units, shall be placed in side yards of less than seven feet unless permission therefore shall have been obtained from the planning and development department of the city.

(8) Maximum building coverage–50 percent of lot.

(9) Maximum height limit–two and one-half stories or 35 feet.

(10) Minimum roof pitch–6:12.

(11) Minimum exterior facade–90 percent masonry all elevations.

(12) Minimum off-street parking–two garage spaces (enclosures prohibited);

–Located minimum of 20 [feet] from property line accessed from. See article V.

(13) Signs–see article VI.

(14) Landscaping and screening–see article VII.

(15) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(16) Site plan approval requirements–none for one- or two-family dwellings. See article VIII.

(Ord. No. 1133, § 1(4-603), 3-22-94; Ord. No. 1320, § II, 4-14-98; Ord. No. 1476, § 2, 7-24-01; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-104 "R-1A" single-family attached dwelling district

(a) Purpose. The intent of this district is to provide suitable areas for single-family residential development where two individual dwelling units can be attached to each other at densities of up to nine units per gross acre. Such development would permit residential areas which have a duplex-like appearance, but which offer residents the opportunity for ownership of both home and lot. The application of this district in appropriate areas will allow residential development at greater densities than the typical single-family district, but would not significantly alter the traditional appearance of existing residential neighborhoods. Such areas should be located adjacent to detached single-family neighborhoods and serve as a transitional buffer with more intensive uses.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached dwellings (using R-1, R-1C, or R-1L district requirements).

Single-family attached dwellings.

Accessory buildings to main use.

Home occupations.

Schools, parks, playgrounds.

(c) District development standards.

(1) Minimum lot area–3,750 square feet.

(2) Minimum lot widths–32 feet.

(3) Minimum floor area per unit–1,100 square feet.

(4) Minimum front yard–25 feet.

(5) Minimum rear yard–15 feet.

(6) Minimum side yard–zero feet for common wall side;

–One side yard, not less than ten feet;

–15 feet if next to street.

(7) Maximum building coverage–50 percent of lot.

(8) Maximum height limit–two and one-half stories or 35 feet.

(9) Common walls between units–two-hour fire rating with soundboard integrated between staggered wall studs extended through to roof deck.

(10) Minimum exterior facade–90 percent masonry facade on all wall elevations.

(11) Minimum off-street parking–see article V.

In front of unit–two garage spaces.

Behind the unit–two garage of carport spaces.

(12) Signs–see article VI.

(13) Landscaping and screening–see article VII.

(14) Site plan approval requirements–none for one- or two-family dwellings. See article VIII.

(Ord. No. 1133, § 1(4-604), 3-22-94; Ord. No. 1225, § 5, 12-12-96)

Sec. 84-105 "R-2" two-family dwelling district

(a) Purpose. The intent of this district is to provide suitable areas for very low density multifamily residential development in the form of two-family or duplex structures at densities of up to nine units per gross acre. Such areas should be located adjacent to lower density detached or attached single-family residential areas and serve as a transitional buffer with more intensive multifamily residential areas.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached dwellings (using any set of R-1(*) district requirements).

Single-family attached dwellings (using R-1A district requirements).

Duplexes.

Accessory buildings to the main use.

Home occupations.

Schools, parks, playgrounds.

(c) District development standards.

(1) Minimum lot area–7,500 square feet.

(2) Minimum lot width–65 feet.

(3) Minimum floor area per unit–850 square feet.

(4) Minimum front yard–25 feet.

(5) Minimum rear yard–15 feet.

(6) Minimum side yard–10 feet each side.

(7) Maximum building coverage–50 percent of lot.

(8) Maximum height limit–35 feet or two and one-half stories.

(9) Minimum exterior facade–90 percent masonry facade on all wall elevations.

(10) Minimum off-street parking–see article V.

In front of unit–two garage spaces per dwelling unit.

Behind the unit–two garage or carport spaces per dwelling unit.

(11) Signs–see article VI.

(12) Landscaping and screening–see article VII.

(13) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(14) Site plan approval requirements–none for one- or two-family dwellings. See article VIII.

(Ord. No. 1133, § 1(4-605), 3-22-94; Ord. No. 1225, § 6, 12-12-96; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-106 "MH" mobile home district

(a) Purpose. The intent of this district is to provide suitable areas for the locating of single-family manufactured and mobile homes at densities of up to eight units per gross acre. Such areas should be characterized by a park-like setting, moderate perimeter setbacks, common open space, appropriate accessory uses and allow for ownership of available home sites.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached, attached and duplex (subject their respective district regulations).

Accessory buildings to main use.

Home occupations.

Manufactured housing/mobile home.

(c) District development standards.

(1) Lot area.

Transit stand–1,500 square feet.

Subdivided lot–4,000 square feet.

(2) Lot width.

Transient stand–30 feet.

Subdivided lot–40 feet.

(3) Minimum lot depth–80 feet.

(4) Front yard.

Public right-of-way–30 feet.

Private drives 20 feet.

(5) Side yards.

Abutting public right-of-way–30 feet.

Interior–ten feet on front side, five feet on other.

Minimum spacing–15 feet from any other mobile/modular home.

(6) Rear yard.

Abutting public right-of-way–30 feet.

Interior–ten feet.

(7) Perimeter yard–25 feet set back within MH district boundary line for structures, manufactured or mobile homes.

(8) Maximum lot coverage–20 percent.

(9) Common open/recreations space.

Twenty units or less–500 square feet per dwelling unit.

More than 20 units–10,000 square feet plus 250 square feet per dwelling unit over 20.

(10) Height limit–two stories.

(11) Minimum off-street parking–see article V.

In front of unit–two garage or carport spaces (carports may be located within two feet of private drive).

Behind the unit–two spaces on paved surface.

(12) Signs–see article VI.

(13) Landscaping–see article VII.

(14) Screening–minimum six feet high wood screening fence around side and rear perimeter. Also see article VII.

(15) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(16) Site plan approval requirements–over all plan required to be approve by city council prior to development. See article VIII.

(Ord. No. 1133, § 1(4-606), 3-22-94; Ord. No. 1445, § 5, 9-26-00; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-107 "R-3" multiple-family low density dwelling district

(a) Purpose. The purpose of this district is to provide suitable areas for the development of residential housing in the form of attached townhouse dwelling units and low density multifamily residential at densities of up to 12 units per gross acre. Such development should be located in transitional type areas between lower density single-family residential uses and higher density multifamily residential uses. The developments should be designed in an architecturally unified manner and adequately accommodate the more intense vehicular parking and circulation needs

of a more dense single-family development.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached, attached and duplex (subject their district regulations).

Accessory buildings to main use.

Home occupations.

Apartments.

Townhouses or row houses (in accordance with the “TH” district).

Schools, parks, playgrounds.

Senior citizens-Assisted living.

Senior housing-Apartments.

(c) District development standards.

(1) Minimum lot area–20,000 square feet.

(2) Minimum lot width–100 feet.

(3) Minimum perimeter yards–Front yard (from front property line): 40 feet for one-story structure, 60 feet for two-story structure, 100 feet for three or more story structures.

–Side and rear yard: 25 feet for one-story structures, 50 feet for two-story structures, 75 feet for three or more story structures.

–Covered parking may extend to within one foot of side or rear lot lines (not adjacent to street right-of-way);

–Roof, balcony and porch overhang may extend into perimeter yards up to four feet;

–Fireplace masses and window boxes may extend into perimeter yards up to four feet;

–No stairways or columns shall extend into the perimeter yard;

–No parking permitted in the perimeter yard adjacent to public streets.

(4) Maximum units per structure–Six units.

(5) Maximum building coverage–40 percent of lot.

(6) Minimum interior building spacing requirements–30 feet between walls having windows or doors in both walls;

–15 feet between window walls and blank walls;

–Ten feet between blank walls.

(7) Maximum number of units by type.

–One bedroom: 50 percent.

(8) Minimum interior landscaped area per dwelling unit (not including any street yard)–500 square feet per unit.

(9) Minimum floor area per unit type.

–One bedroom: 690 square feet.

–Two bedroom: 980 square feet.

–Three bedroom: 1,100 square feet.

–Additional 250 square feet per added bedroom.

(10) Maximum structure height.

Not adjacent to one- or two-family property–35 feet, no limit on roof height for structures located 100 feet or more from land zoned for one- or two-family dwelling purposes.

Adjacent to one- or two-family property–single story for any structures located less than 100 feet from land zoned for one- or two-family dwelling purposes.

(11) Minimum distance to any public right-of-way or fire lane–100 feet.

(12) Minimum off-street parking–1.5 parking spaces per unit + 0.5 per bedroom. See article V.

–Open carports in a street yard are not permitted. All vehicle parking located in any street yard shall be fully enclosed, with an architecturally compatible design.

–50 percent of parking must be located in a garage with direct access to the related dwelling unit.

–All required parking, located greater than 40 feet from any main structure, shall be covered parking and shall be architecturally compatible with the main structures in the project.

–A minimum of ten percent of all required parking shall be designated as guest parking and shall be clearly marked as reserved for guests and shall be in an area providing guest with unrestricted access to the guest parking spaces.

–Garages shall be designed with a minimum parking space measuring 12 feet by 20 feet in size with a minimum ten-foot door width.

–Runs of parking spaces shall be limited to a maximum of 12 spaces without a landscaped island. However, up to 16 spaces may be permitted in situations where it is required to save existing trees.

(13) Signs–see article VI.

(14) Landscaping and screening–see article VII.

–All utilities, such as gas meters, electrical meters and panels, fire control panels, telephone, CATV panels, and similar devices shall be screened from public view. Landscape screening as defined in article VII may be used to meet this requirement.

–Security gates and entrances must be provided and a turnaround prior to the gate must be provided.

–All screening structures must be of similar construction materials as the main buildings.

–A decorative masonry screening wall shall be located along the perimeter of the development. It may be constructed totally of masonry material or may include a combination of ornamental iron with masonry columns. The perimeter screening wall shall be of similar architectural style as the main structures.

(15) Personal open space–One private usable open space per unit as follows:

–Balconies (above ground level) shall be a minimum of 65 square feet.

–Patios or yards (at ground level) shall be 100 square feet, the minimum depth shall be a minimum of six feet.

(16) Site plan approval–see article VIII. City council approval required prior to construction commencing.

(17) Privacy–Privacy features between buildings shall include the following:

–Windows, balconies or similar openings above the first story shall be oriented so as not to have a direct line-of-sight into adjacent units within the project.

–Units above the first story shall be designed so that they do not look directly onto private patios or backyards of adjoining residential property.

–Landscaping shall be used to aid in privacy screening.

(18) Personal storage area–A minimum of 80 cubic feet per dwelling unit of secured storage space, available only to the residents of the designated related dwelling unit shall be provided. This required storage may not be part of a habitable area but

must share a common wall with the unit. However, the secured storage space may be located in the designated garage for a unit, but may not be located in the designated 12 feet by 20 feet parking area within the garage.

(19) Architectural features–Varied roof lines and/or heights shall be used to reduce the appearance of the mass of buildings which exceed two stories in height.

–Techniques, such as varied setbacks, bay windows, balconies, and changes in material, color and texture, shall be used to articulate facades and side wall elevations. Where rear walls are visible from a public street, similar techniques shall be used.

–Flat roof design is prohibited. Gabled roofs or hipped roofs shall have a minimum pitch of 5:12.

–Each structure shall contain a transparent glass window or windows with an aggregate area of at least 20 percent of the front facade of that unit.

–All units shall have a minimum ceiling height of nine feet in the living areas, not including closets and storage spaces.

–Exterior construction shall consist of 90 percent masonry material (area containing glass shall be included in the 90 percent calculation).

(20) Trash receptacles–There shall be one centralized trash collection point serving each multifamily development.

–No trash collection point shall be located within 100 feet of a property line.

–The centralized trash collection point shall not be located in any street yard.

–All trash receptacles shall be screened with a masonry wall of similar material as the main structure, with appropriate landscaping on three sides and shall have a screening gate which shall remain closed except when being serviced.

(21) Utility services–All utility services shall be buried.

(22) Entry feature–A main entrance feature, which may consist of a combination of landscaping, aesthetic features such as rocks, sculptures and water, and street pavers, shall be provided. The entrance feature shall be consistent with the basic architectural theme of the development.

(23) Traffic–A traffic impact analysis, prepared by a qualified traffic engineer, must accompany the site plan. However, the traffic impact analysis requirement may be excluded from the site plan if the city engineer determines that the analysis is not necessary for the multifamily development.

(Ord. No. 1133, § 1(4-607), 3-22-94; Ord. No. 1225, § 7, 12-12-96; Ord. No. 1239, § II, 7-8-97; Ord. No. 1535, § 1, 6-25-02)

Sec. 84-107.5 "TH" townhouse dwelling district

(a) Purpose. The purpose of this district is to provide suitable areas for the development of residential housing in the form of attached townhouse dwelling units. Such development should be located in transitional type areas between lower density single-family residential uses and higher density multifamily residential uses. The developments should be designed in an architecturally unified manner and adequately accommodate the more intense vehicular parking and circulation needs of a more dense single-family development.

(b) Permitted primary uses. See Table 4-A for detail listing. General uses include:

Single-family detached, attached and duplex (subject to their district regulations)

Accessory buildings to main use

Home occupations

Townhouses or row houses

Schools, parks, playgrounds

(c) District development standards.

(1) Minimum lot area–2,200 square feet.

(2) Minimum lot width–22 feet.

(3) Minimum lot depth–100 feet.

(4) Minimum floor area per unit–1,000 square feet per unit.

(5) Minimum front yards–20 feet for private drives.

–25 feet for public streets.

(6) Minimum rear yard–20 feet.

(7) Minimum side yard–Zero feet for common walls.

–15 feet on end walls for interior lots.

–25 feet for side yards next to public streets on corner lots.

(8) Maximum building coverage–40 percent of lot width.

(9) Maximum units per structure–Four units.

(10) Maximum structure height.

Not adjacent to one- or two-family property–45 feet, no limit on roof height for structures located 60 feet or more from land zoned for one- or two-family dwelling purposes.

Adjacent to one- or two-family property–Single story for any structures located less than 60 feet from land zoned for one- or two-family dwelling purposes.

(11) Exterior construction–90 percent masonry veneers.

(12) Minimum off-street parking–see article V.

–Two garage spaces if located in front of unit.

–Two uncovered spaces if located behind the unit.

–See subsection (9).

(13) Common walls between units–Two-hour fire rating with soundboard integrated between staggered wall studs extended through to roof deck.

(14) Maximum distance to public right-of-way or fire lane–100 feet.

(15) Signs–See article VI.

(16) Landscaping and screening–See article VII.

(17) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(18) Site plan approval–See article VIII. City council approval required prior to construction commencing.

(Ord. No. 1239, § I, 7-8-97; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-108 "R-4" multiple-family medium density dwelling district

(a) Purpose. The purpose of this district is to provide suitable areas for the development of multifamily residential structures at moderate densities of up to 16 units per gross acre. Such areas should be characterized by generous open spaces, relatively low traffic generation, appropriate recreation amenities, and adequate accessory facilities and be located primarily as transitional buffers between lower density residential uses such as townhouses and more intensive residential and nonresidential land uses.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached, attached and duplex (subject their district regulations).

Accessory buildings to main use.

Home occupations.

Apartments.

Townhouses or row houses (as described below).

Schools, parks, playgrounds.

Senior citizens–Assisted living.

Senior housing–Apartments.

(c) District development standards.

(1) Maximum density–16 dwelling units per acre.

(2) Maximum units per structure–Ten units.

(3) All other district development standards are the same as the R-3 district.

(Ord. No. 1133, § 1(4-608), 3-22-94; Ord. No. 1239, § II, 7-8-97; Ord. No. 1535, § 2, 6-25-02)

Sec. 84-109 "R-5" multiple-family high density dwelling district

(a) Purpose. The purpose of this district is to provide suitable areas for the development of multifamily residential structures at moderate densities of up to 24 units per gross acre. Such areas should be characterized by consolidated open spaces, relatively low traffic generation, a wide range of recreational amenities and adequate accessory facilities. This land use should be located in areas not suitable for lower density residential uses and can be used as transitional buffers between lower density residential uses such as townhouses and more intensive land uses.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Single-family detached, attached and duplex (subject their district regulations).

Accessory buildings to main use.

Home occupations.

Apartments.

Townhouses or row houses (as described below).

Schools, parks, playgrounds.

Senior citizens–Assisted living.

Senior housing–Apartments.

(c) District development standards.

(1) Maximum density–24 dwelling units per acre.

(2) Maximum units per structure–12 units.

(3) All other district development standards are the same as the R-3 district.

(Ord. No. 1133, § 1(4-609), 3-22-94; Ord. No. 1239, § II, 7-8-97; Ord. No. 1535, § 3, 6-25-02)

Sec. 84-110 "C-1" neighborhood business district

(a) Purpose. The intent of this district is to provide suitable areas for the development of certain limited business uses in proximity to residential neighborhoods in order to more conveniently accommodate the basic everyday retail and service needs of nearby residents. Such uses should occur most often on the periphery of established neighborhoods at the intersection of collectors and minor arterial and be characterized by non-residential uses which have generous landscaping and do not attract long distance traffic trips.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Personal service shops and light retail stores.

Small professional offices, banks, studios.

Restaurants or cafes.

Schools.

Parks, playgrounds.

Outside sales, storage, or display prohibited, no service to automobiles.

(c) District development standards.

(1) Minimum lot area–none.

(2) Minimum lot widths–none.

(3) Minimum front yard–20 feet.

(4) Minimum rear yard–15 feet.

(5) Minimum side yard–none except when adjacent to land zoned for residential purposes then five feet.

(6) Maximum structure height.

Not adjacent to one- or two-family property–35 feet, no limit on roof height for structures located 100 feet or more from land zoned for one- or two-family dwelling purposes.

Adjacent to one- or two-family property–single story for any structures located less than 100 feet from land zoned for one- or two-family dwelling purposes.

(7) Minimum exterior facade–100 percent masonry facade on all wall elevations.

(8) Minimum off–street parking–see article V.

(9) Signs–see article VI.

(10) Landscaping and screening–see article VII.

(11) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(12) Site plan approval–see article VIII. City council approval required prior to construction commencing.

(Ord. No. 1133, § 1(4-610), 3-22-94; Ord. No. 1225, § 1, 12-12-96; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-111 "C-2" community business district

(a) Purpose. The intent of this district is to provide suitable areas for the development of business uses which offer a wide variety of retail and service establishments that are generally oriented towards serving the overall needs of the entire community. Such uses generally include those retail, service and office activities that are usually found in major community shopping centers and in centralized commercial districts. This district should be the most widely applied business district in the city due to its generic service nature and provide for appropriate landscaping.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Large and small retailers and office uses.

Service establishments.

Hotels, motels, and travel lodges.

Medical and dental clinics.

Automotive repair and service shops.

Schools.

Parks, playgrounds.

No manufacturing or sales of secondhand goods.

(c) District development standards.

(1) Minimum lot area and width–none.

(2) Minimum front yard–20 feet.

(3) Minimum rear yard–15 feet.

(4) Minimum side yard–none, except when adjacent to land zoned for residential purposes, then five feet.

(5) Maximum height limit.

General–60 feet or four stories (which ever is less).

Public and semipublic uses–hotels, hospitals, schools, public buildings may be erected to 80 feet, provided all yards are increased an additional foot for each foot the building exceeds 60 feet.

Adjacent to residential–any structures located within 100 feet of land zoned for one- or two-family dwelling purposes are limited to a single story.

(6) Minimum exterior facade–100 percent masonry facade on all wall elevations.

(7) Minimum off-street parking–see article V.

(8) Signs–see article VI.

(9) Landscaping and screening–see article VII.

(10) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(11) Site plan approval–see article VIII. City council approval required prior to construction commencing.

(Ord. No. 1133, § 1(4-611), 3-22-94; Ord. No. 1225, § 2, 12-12-96; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-112 "TX-10" Texas Highway 10 multi-use district

(a) Purpose. The Texas Highway 10 multi-use district is intended to permit concentrated growth along the north and south sides of Texas Highway 10 with the development of business, industry and compatible support activities that maximize the potential for job growth, increase property values, and enhance the city's urban image along the State Highway 10 corridor. It specifically encourages those uses that will stimulate work force expansion, optimize employee to customer ratios, maximize the economic use of available land and encourage the redevelopment of land. It specifically discourages those uses which provide for marginal increases in job growth, promote idle land, and detract from the image enhancement intentions of this district

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Office, retail, warehousing.

s

Automotive repair and service shops.

Fabrication, assembly.

(c) District development standards.

(1) Minimum lot area–22,500 square feet.

(2) Minimum lot width–130 feet.

(3) Minimum front yard–20 feet if all is landscaped.

–30 feet if not all landscaped.

(4) Minimum rear yard.

Adjacent to right-of-way–20 feet.

Adjacent to one- or two-family zoning–two feet of side yard per one foot of building height.

All other conditions–same as height of building (per UBC), however, not less than 10 feet.

(5) Minimum side yard–same as minimum rear yard.

(6) Maximum height limit.

Adjacent to residential–any structures located within 120 feet of land zoned for one- or two-family dwelling purposes are limited to a single story.

All other conditions–60 feet.

(7) Minimum exterior facade–100 percent masonry facade on all wall elevations.

(8) Minimum buffer adjacent to residential zoning–six feet high screening fence or wall on common property line, with evergreen shrubs planted within a minimum ten feet wide landscape strip along the screen. Shrubs to be four feet on centers, not less than three feet height at planting and not less than six feet high within three years after planting.

(9) Outside sales area–permitted when less than 20 percent of gross floor area of building and not within street yard.

(10) Open storage and use areas–must be paved and located behind structure;

–Screened from all streets, medical, hotels, shop centers, via six feet high masonry wall (see screening wall article VII);

–Screened on all other sides by chainlink fence w/ slats or better (see screening fence article VII);

–All materials stacked below height of screen;

–Not less than 25 feet to property zoned for one- or two-family use.

(11) Loading docks–screened from street with masonry wing wall;

–Setback from street a minimum of 50 feet.

(12) Recycling and dumpsters areas–screened with masonry wall (see wall article VII);

No closer than 20 feet to residentially zoned property.

(13) Roof mounted equipment–screened with architecturally compatible material.

(14) Meter and utility devices–screened with landscaping or architecturally compatible material.

(15) Frontage landscaping–ten feet wide strip along front property line;

–One three-inch [caliper] tree per every 25 feet of frontage;

–Four shrubs per every 25 feet of frontage.

(16) Parking lot landscaping–25 square feet per parking space;

–One tree for every ten parking spaces in street yard.

(17) Minimum off-street parking–see article V.

(18) Signs–see article VI.

(19) Screening–see article VII.

(20) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(21) Site plan approval–see article VIII. City council approval required prior to construction commencing.

(Ord. No. 1133, § 1(4-612), 3-22-94; Ord. No. 1225, § 11, 12-12-96; Ord. No. 1538, § 1, 6-25-02)

Sec. 84-113 "LI" limited industrial district

(a) Purpose. The intent of this district is to provide suitable areas for the development of industrial and manufacturing type uses which are characterized by exceptionally high

developmental, operational and environmental standards. Such operations include those which are generally characterized by low traffic generation, minimal building coverage, generous setbacks, abundant open space and attractive site planning.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Retail, office, warehousing, assembly, light manufacturing.

(c) District development standards.

(1) Minimum front yard–50 feet.

(2) Minimum side yards–20 feet.

(3) Minimum rear yard–20 feet.

(4) Maximum height limit–two stories and 45 feet.

(5) Maximum floor area–2.5 times the buildable lot area (i.e., lot area less area of required yards).

(6) Minimum exterior facade–100 percent masonry on street facing elevations; and 75 percent for all other wall elevations permitted if at least two of the following enhanced exterior masonry treatments or elements are incorporated into the design: enhanced course projections coining, coping, colonnades, cornice, pilaster, or other approved masonry enhancements as approved by the building official.

(7) Minimum off-street parking–see article V.

(8) Signs–see article VI.

(9) Landscaped frontage–ten feet wide landscape strip adjacent to public right-of-way minimum of one three-inch caliper tree per 25 feet of street frontage with underground irrigation system.

(10) Open storage and use areas–permitted within buildable area provided screened on all sides by the building or a view obstructing fence or wall not less than six feet high.

(11) Minimum buffer adjacent to residential zoning–six feet high screening fence or wall on common property line, with evergreen shrubs planted within a minimum ten feet wide landscape strip along the screen. Shrubs to be four feet on centers, not less than three feet height at planting and not less than six feet high within three years after planting.

(12) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(13) Site plan approval–see article VIII. City council approval required prior to

construction commencing.

(Ord. No. 1133, § 1(4-613), 3-22-94; Ord. No. 1225, § 8, 12-12-96; Ord. No. 1538, § 1, 6-25-02; Ord. No. 1732, § 1, 4-11-06)

Sec. 84-114 "I-1" light industrial district

(a) Purpose. The intent of this district is to provide suitable areas for the development of industrial and manufacturing type uses which are characterized by exceptionally high developmental, operational and environmental standards. Such operations include those which are generally characterized by low traffic generation, minimal building coverage, generous setbacks, abundant open space and attractive site planning.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Retail, office, warehousing, assembly, light manufacturing.

(c) District development standards.

(1) Minimum front yard–20 feet.

(2) Minimum side yards–none unless abuts lot used for dwelling then minimum of ten feet.

(3) Minimum rear yard–none unless abuts lot used for dwelling then minimum of ten feet.

(4) Maximum height limit.

Adjacent to one- or two-family zoned property–single story for any structures located less than 100 feet from land zoned for one- or two-family dwelling purposes.

Not adjacent to one- or two-family zoned property–No limitation.

(5) Minimum exterior facade–100 percent masonry on street facing elevations; and 75 percent for all other wall elevations permitted if at least two of the following enhanced exterior masonry treatments or elements are incorporated into the design: enhanced course projections coining, coping, colonnades, cornice, pilaster, or other approved masonry enhancements as approved by the building official.

(6) Minimum off-street parking–see article V.

(7) Signs–see article VI.

(8) Landscaping and screening–see article VII.

(9) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(10) Site plan approval–see article VIII. City council approval required prior to

construction commencing.

(Ord. No. 1133, § 1(4-614), 3-22-94; Ord. No. 1225, § 9, 12-12-96; Ord. No. 1538, § 1, 6-25-02; Ord. No. 1732, § 2, 4-11-06)

Sec. 84-115 "I-2" heavy industrial district

(a) Purpose. This district is much more liberal in permissive uses of industrial and manufacturing nature and functions and provides for the citing of enterprises that tend to emit odors, noises, dust, and vibrations and that are least compatible with other uses. As in the "I-1," light manufacturing district, no new dwelling uses will be permitted other than those that are now present and as needed for caretakers and watchmen. Off-street parking and loading facilities are required to lessen congestion in the streets.

(b) Permitted primary uses. See Table 4-A for detailed listing. General uses include:

Retail, office, warehousing, assembly, manufacturing.

(c) District development standards.

(1) Minimum front yard–20 feet.

(2) Minimum side yard–none, unless abuts lot used for dwelling, then minimum of ten feet.

(3) Minimum rear yard–none, unless abuts lot used for dwelling, then minimum of ten feet.

(4) Maximum height limit.

Adjacent to one- or two-family zoned property–single story for any structures located less than 100 feet from land zoned for one- or two-family dwelling purposes.

Not adjacent to one- or two-family zoned property–no limitation.

(5) Minimum exterior facade–100 percent masonry on street facing elevations; and 75 percent for all other wall elevations permitted if at least two of the following enhanced exterior masonry treatments or elements are incorporated into the design: enhanced course projections coining, coping, colonnades, cornice, pilaster, or other approved masonry enhancements as approved by the building official.

(6) Minimum off-street parking–see article V.

(7) Signs–see article VI.

(8) Landscaping and screening–see article VII.

(9) Utility services–All utility services shall be buried. See subsection 84-447(2)(k), construction standards for additional requirements.

(10) Site plan approval–see article VIII. City council approval required prior to construction commencing.

(Ord. No. 1133, § 1(4-615), 3-22-94; Ord. No. 1225, § 10, 12-12-96; Ord. No. 1538, § 1, 6-25-02; Ord. No. 1732, § 3, 4-11-06)

Sec. 84-116 "TX-121" the 121 Gateway district

(a) Purpose. The State Highway 121 area by virtue of its location, depth, width, size and visibility lends itself to a multi-use or mixed-use development pattern. It is envisioned that a variety of uses including retail and wholesale commercial, office, business and personal services, entertainment, educational and residential developments should be encouraged to occur in proximity to each other. Further, it is intended that these uses possess site designs, architectural themes and overall spatial relationships that serve to complement and enhance the economic and aesthetic value of the State Highway 121 Gateway area as a whole.

(b) Where, in any specific case, different sections of this Code specify different materials, methods of construction or other requirements, the most restrictive shall govern. Where there is a conflict between a general requirement and specific requirement, the specific requirement shall be applicable.

(c) District development standards.

(1)	Minimum lot area:	
	• Residential	
	SF detached	10,000 square feet.
	• Nonresidential	No minimum lot area.
(2)	Minimum lot width:	
	• Residential	
	SF detached	100 feet.
	• Nonresidential	No minimum lot width.
(3)	Minimum front yard:	
	• Residential	30 feet.
	• Nonresidential	20 feet.
(4)	Minimum side yard:	
	• Residential	10 feet from other residential.
		15 feet on interior side yard end walls.
		15 feet from nonresidential.
		20 feet for corner lots on public streets.
	Nonresidential	0 feet from nonresidential.
		20 feet from residential.
		20 feet for corner lots on public streets.
(5)	Minimum rear yard:	
	• Residential	25 feet.
	• Nonresidential	Equal to height of structure within 100 feet of residentially z used property; minimum of 15 feet.
(6)	Maximum lot coverage:	

	Building including parking garages.	
	• Residential	60 percent.
	• Nonresidential	80 percent.
	Minimum living floor area:	2,500 square feet
(7)	Maximum floor area ratio:	
	• Standard:	3:1.
	• With TDR's	6:1 maximum.
(8)	Maximum residential density:	
	• Residential	Limited by lot size.
(9)	Maximum structure height:	
(10)	Utility services:	See section 84-447(2)(k), construction standards, for additi requirements.
	All utility services shall be buried.	

Definition: Height is defined in the Uniform Building Code as "the vertical distance above a reference datum measured to the highest point of the coping of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable of a pitched or hipped roof. The reference datum is the elevation of the highest adjoining sidewalk or ground surface within a 5 foot horizontal distance from the building ... or an elevation 10 feet higher than the lowest grade ... whichever yields a greater height of buildings.

a. East of State Highway 121: The maximum height for the first 100 feet of those portions of this district that are adjacent to single-family zoning shall not exceed 36 feet. From a point that is 100 feet from a single-family zoning district and starting 36 feet above grade, height may increase at a rate of one foot of height for each two feet of horizontal distance. At a distance of 568 feet from a single-family-zoning district, the residential proximity slope no longer applies. (See Exhibit B)

b. West of State Highway 121: There are no height limitations west of State Highway 121.

(d) Minimum tower separation: This standard applies to any building that exceeds 60 feet in height within 250 feet of the right-of-way line of State Highway 121 (SH 121).

(1) Twin tower development is encouraged.

(2) Buildings designed with facades at a 45-degree angle to SH 121 right-of-way are encouraged.

(3) Any building or combination of buildings having a building footprint that exceeds 50,000 square feet shall be separated from another building or combination of buildings, on the same platted lot, a minimum of 80 feet. (See Figure 1)

(4) If the depth of the building is greater than the width of the building as measured perpendicular to the SH 121 right-of-way, an additional minimum separation of one-half the difference shall be added to the required 80-foot separation. For building configurations which result in building separations in excess of 120 feet, alternative spacing requirements may be considered and approved by the development review committee for buildings on the same platted lot. (See Figure 2)

(5) Buildings that are more than twice as wide as their depth shall have 80 feet of building separation for every 200 feet of width, or portion thereof. (See Figure 3)

(6) Buildings or combinations of buildings that are constructed so that facades are at an angle of 45 degrees to the SH 121 right-of-way shall have a minimum separation between buildings or combinations of buildings, not on the same platted lot, of 200 feet. (See Figure 4)

(7) Buildings or combinations of buildings that are constructed so that facades are parallel to the SH 121 right-of-way, shall have a minimum separation between buildings or combinations of buildings, not on the same platted lot, of 300 feet. (See Figure 5)

(8) Buildings that are constructed parallel to the SH 121 right-of-way and which are adjacent to a building on another platted lot which is constructed at a 45-degree angle to the SH 121 right-of-way, shall maintain a 250 foot building separation. (See Figure 6)

(e) Minimum exterior facade:

(1) Residential

Facing Street .....90 percent

All Other Elevations .....90 percent

(2) Nonresidential

Facing Street .....100 percent

All Other Elevations .....100 percent

(3) Facade materials shall include architectural split face block, thin-wall brick, one-coat stucco, and natural stone.

(f) Landscaping: Shall conform to City of Euless Unified Development Code (UDC) article VII, landscape design requirements.

(1) Plus the following conditions:

Minimum Landscape Edge (ten feet) (exclusive of R.O.W.).

Required trees must be three inches caliper when planted.

Two ornamental trees may substitute for one canopy tree.

An approved existing tree with six-inch diameter plus 15 feet tall may substitute for two required trees.

(2) Plus two design standards: (choose two from below)

Enhanced perimeter landscape edge (15 feet) OR

Enhanced vehicular pavement (brick, stamped concrete, or pavers) OR

Permeable enhanced pavement (includes pavers with grass) OR

Pedestrian facilities, (i.e.plazas, fountains, lakes, benches, etc.) OR

Foundation planting strip (may include containers) OR

Enhanced pedestrian pavement (brick, stamped concrete or pavers)

(3) Plus parking lot landscaping:

Any parking area of 20 or more spaces shall have interior landscaping

Shrubs along parking areas must be maintained at a maximum height of 24 inches

Required trees must be three inches caliper when planted

One space per each 20 shall be landscaped:

May be all groundcover or turf if island contains a tree

Two shrubs may be substituted for each 10 SF of groundcover or turf.

(g) Screening: Shall conform to City of Euless UDC article VII screening requirements.

(1) The solid masonry screening wall may use any of the materials described in the minimum exterior facade section.

(2) All service corridors and loading areas shall be screened.

(3) Open storage permitted in buildable area if screened on all sides with a fence or wall as required by UDC article VII.

(4) Six foot solid perimeter masonry fence or wall shall be required along all contiguous residential use.

(h) Site plan approval: Site plan approval shall be required as per UDC article VIII.

(i) Off-street parking:

(1) Uses with non-conflicting hours of operation may share parking to satisfy parking requirements.

(2) The combined total of required parking may be reduced by the amount in the following matrix to allow shared parking.

a. Office Use in excess of 125,000 SF.

When combined with hotel, motels or office use with a minimum of 125 guestrooms, parking may be reduced by ten percent.

When combined with office, retail, business, or personal service of a minimum of 20,000 SF, parking may be reduced by ten percent.

When combined with amusement or recreational services, parking may be reduced by 50 percent.

When combined with eating, drinking or restaurant-type uses, parking may be reduced by 50 percent.

b. Hotel and Motel Use with a minimum of 125 guest rooms.

When combined with hotel, motel and office uses with a minimum of 125,000 SF, parking may be reduced by ten percent.

When combined with hotel, motel, retail, business, or personal service of a minimum of 20,000 SF, parking may be reduced by ten percent.

When combined with amusement or recreational services, parking may be reduced by 50 percent.

When combined with eating, drinking or restaurant-type uses, parking may be reduced by 50 percent.

c. Retail, business and personal service use with a minimum of 20,000 SF.

When combined with office, retail, business or personal services with a minimum of 125,000 SF, parking may be reduced by ten percent.

When combined with hotel, motel, retail, business or personal service uses when the hotel has a minimum of 125 guest rooms, parking may be reduced by 50 percent.

d. Retail mall use with a minimum of 250,000 SF.

When combined with all other uses except amusement and recreational uses, parking may be reduced by ten percent.

When combined with amusement and entertainment uses, parking may be reduced by 50 percent.

(j) Parking lot design: Shall conform to City of Euless Unified Development Code (UDC) article V, Off-Street Parking, Loading, and Driveway Standards, plus the following:

(1) Shared drives shall have the following stacking distance:

48 feet from SH 121.

38 feet from all other roads.

(2) Curbs shall be provided on all drives and parking areas.

(3) Enhanced pavement is required for main driveway entrances for a depth equal to the landscape buffer.

(4) Enhanced pavement materials shall include paving, such as brick, stamped concrete or architectural pavers or a combination of materials reflecting the overall project design.

(5) The spacing and total number of site access driveways will be evaluated on a project by project basis. Driveway location and quantity will be conceptually identified during the land plan and/or specific use permit stage of a project's development. Further refinement and final determination will be made through either site plan or planned development site plan approval. Shared access (mutual access) easements and improvements are strongly encouraged and may be required.

(6) The spacing and number of driveways, as well as the possible requirement for shared access easements and improvements will be determined by the joint analysis and decision of the city engineer and the director of planning and development. Factors to be considered include, but are not limited to, intersection geometrics, tract or lot linear frontage, physical and functional roadway characteristics, types of land uses and their operational requirements, life/safety concerns and market-based needs and trends.

(7) Parking shall be permitted within street yards.

(k) Pedestrian circulation:

(1) Walkways and pedestrian connections shall be clearly marked with the use of enhanced paving, such as brick, stamped concrete or architectural pavers or a combination of materials reflecting the overall project design.

(2) Pedestrian access to public open space shall be provided.

(3) Enhanced pavement walkways shall be used wherever there may be a presumed conflict between pedestrians and vehicular traffic. The enhanced pavement shall alert the motorist of the potential pedestrian crossing. Locations typically shall occur

between buildings that are linked across parking areas.

(l) Signs in Nonresidential areas:

(1) Signs used in this district must complement the overall project architecture.

(2) Signs shall comply with UDC article VI, except no roof or projection type signs shall be permitted.

(m) Lighting: Lighting shall conform to the City of Euless UDC article V.

(1) Parking lot lighting used in this district must complement the overall project architecture.

(2) Maximum height for parking light standards shall be 30 feet.

(n) Special Exceptions: Exceptions to these development standards may be granted through the procedures provided for by the UDC.

(o) Transfer of Development Rights (TDR) and Floor to Area Ratio (FAR) Assignment.

(1) Description:

a. Transfer of development rights: This concept allows unused building rights to be transferred from one property to another within the boundaries of this district.

b. Floor to area ratio: This is a ratio of the amount of building that may be constructed as it relates to the amount of square footage of property. For instance, a FAR of 3 to 1 allows three square feet of building for each square foot of land.

All land with this district is assigned a base floor to area ratio (FAR) of 3 to 1 (three square feet of building for each square foot of land). A property owner may sell or otherwise convey excess or unused FAR to another site within this planned development whether the conveyance is from a building site or undeveloped piece of property. Under no circumstances shall more than 2.75 FAR be transferred from any building site or property within this district. The FAR for any parcel shall not exceed 6:1.

If for instance, all of the development on a building site uses less than the base FAR, then the unused difference in FAR may be transferred to another building site or piece of property within the district. While the unused FAR may be transferred to another building site or piece of property, the development standards (i.e. height, lot coverage, setbacks, etc.) for the receiving building site or piece of property may not be violated.

(2) Process: When FAR is transferred from one property to another, the owner of the development rights shall:

a. Submit to the city information regarding the transfer in a form that is suitable for filing in Tarrant County deed records. This information shall include:

    1. The names and addresses of the owner(s) of the development rights

    2. Street address, lot and block numbers, and/or legal description of the property from which the development rights are to be transferred.

    3. Street address, lot and block numbers, and/or legal description of the property to which the development rights are to be transferred.

    4. An account tabulation of the following for both the transferring and receiving tracts:

        i. The amount of development rights (in square footage and FAR) available,

        ii. The amount of development rights (in square footage and FAR) transferable, and

        iii. The balance of development rights (in square footage and FAR) remaining.

b. Within 30 days of the submission of the information, the director of the department of planning and development shall review the information. If the information is found to be complete, the director shall sign the form attesting that the information provided complies with the requirements of this section. If the director finds that the information is insufficient or in error, the director shall notify the applicant of those deficiencies and the applicant shall correct the deficiencies and may resubmit the application. A new 30-day review period commences with the re-submittal of the information.

c. Once the director has approved the information, the city shall file the form in the Tarrant County deed records, at the applicant's expense.

d. The recipient of transferred development rights may transfer those rights to another property in this district by following the procedures outlined in this section.

e. The city shall maintain a record of development rights transfers.

f. All transfer of development rights (TDR) applications shall be submitted to the city for review along with an application and review fee as specified in chapter 30 in this Code.

g. Any accumulation of FAR (i.e., through the transfer of development rights) that occurs without the review and attestation of the director of planning and development, shall be void and shall not be binding upon the city, and also

may result in denial of building permits, certificates of occupancy, and/or withholding of utilities.

(Ord. No. 1310, § I, 9-8-98; Ord. No. 1538, § 2, 6-25-02)

Sec. 84-117 Main Street sign regulations

(a) Purpose and district boundaries. The intent of this section is to provide signage standards for a defined area of Main Street. The boundaries are established as property abutting North Main Street between the center lines of South Pipeline Road and Glade Road or a sign located on an intersecting street, which sign is located within 300 feet of the nearest right-of-way line of Main Street. It is hereby declared to be the intent of this section to establish reasonable development standards that permit and control business signage within the area:

(1) Encourage commercial and office signage that fits the architectural scale of Main Street.

(2) Limit and discourage signage that creates traffic hazards and congestion.

(3) Encourage visual and functional harmony among allowed signage.

(b) Definitions and sign classifications. See art. VI. sec. 84-232 and the following definitions

Single tenant sign. A sign that contains information about one business only.

Multi-tenant sign. A sign that contains information about multiple businesses.

Directional sign. A sign that contains information about traffic circulation on the property or between the property and a public road (i.e. entry, exit, drive-through lane, etc.)

(c) Non-conforming signs, permits, and conditions.

Signs:

A sign that would not be permitted as a new sign under this section, but which was lawfully existing on the effective date of these regulations, but which by reason of its size, height, location, design construction or operational use is not in conformance with the requirements of these regulations, shall be issued a nonconforming sign permit by the city. An applicant may appeal the standards of this section on a hardship basis to the city council.

Such permit shall allow the sign subject to such permit, which was made nonconforming by the adoption of these regulations, to remain in place and operational, provided that no action is taken which increases the degree or extent of the nonconformity, and that such nonconforming use (if applicable) remains in uninterrupted and continuous use during such time. The continued existence of such nonconforming sign shall, however, be subject to the authority of the city to order discontinuous of use under the provisions of the Texas Local Government Code.

Nonconforming sign permits shall lapse if a nonconforming sign is discontinued or interrupted for a period exceeding 90 calendar days. A change in the information on the face of an existing nonconforming sign will be permitted, however, any nonconforming sign shall be eliminated or made to conform to the requirements of this section when any proposed change, repair, or maintenance constitutes an expense of more than 25 percent of the replacement value of the sign.

(d) District sign standards.

(1) Other business signs. See art. VI., Signs and street regulations.

(2) Non-attached signs. An on-premises pole sign shall be allowed within the front building setback for properties in the area that have public road frontage along State Highway 183, subject to the requirements of article VI.

(3) Non-attached signs. Monument signs, both single tenant and multi-tenant signs, shall be allowed, subject to the following requirements:

a. Number of signs allowed. A single monument sign shall be allowed per property. It shall be located on the same property as the business it is identifying.

b. Street property line and side property lines setback. See art. VI., sec. 84-234, subject to the approval of the engineering director with regard to sight distance or circulation conditions

c. Single tenant sign.

1. The sign shall be limited to a maximum of eight feet above the nearest top of curb elevation.

2. The total sign face area shall be limited to a maximum of 50 square feet (100 square feet for both sides), measured from outer edge to outer edge, and from grade to the tallest part of the sign structure.

3. The sign may contain a maximum of two announcement surfaces. (An applicant may construct a sign of varying width and height within these requirements.)

d. Multi-tenant sign.

1. The sign shall be limited to a maximum of 12 feet above the nearest top of curb elevation.

2. The total sign face area shall be limited to a maximum of 150 square feet (300 square feet for both sides), measured from outer edge to outer edge, and from grade to the tallest part of the sign structure.

3. The sign may contain a maximum of two announcement surfaces. (An

applicant may construct a sign of varying width and height within these requirements).

e. Allowed materials for sign and base.

1. The signs permitted by this section may be constructed of materials approved by the prevailing building and electrical codes of the city.

2. The sign must be placed on a masonry base. Approved base materials include concrete, stone, brick or other masonry that compliments the architecture of the primary building.

3. In the event that a concrete base is constructed, screening of the base is required with landscaping and irrigation.

4. The construction of the signs will be subject to the prevailing building, electrical, mechanical, and other appropriate codes as required for a permit to be issued for other structures.

f. Directional signage may be allowed, but only at the discretion of the planning director and engineering director.

g. Lighting of signs. The signs permitted in this section, if illuminated, shall be internally lit.

h. Intensity of lighting.

1. Signs shall not be permitted which, by virtue of the intensity, direction, or color of its lighting or illumination, shall interfere with the proper operation of, or cause confusion to the operator of a motor vehicle on the public streets.

2. Signs which are lighted or illuminated to an intensity in excess of that of a public streetlight (400 watts) shall not be constructed or maintained within 200 feet of and facing property in a residential zone. The building official shall approve intensities of illumination in all cases.

i. The signs permitted in this section shall not contain any moving parts, blinking lights, and dimming lights or the like, and shall otherwise conform to section 84-239, prohibitive sign characteristics.

j. Property address. The signs permitted in this section must contain the property address in block letters at least 8 inches in height that are easily read from the street. The property address shall be considered to be a part of the allowed square footage of the sign.

k. Signage text.

1. The signs shall be limited to the name and/or type of business only.

There shall be no advertising allowed on the signage, and no posting of other messages, labels, or logos beyond that of the primary tenant.

2. An exception is allowed for the posting of gasoline pricing for a convenience store, within the allowed square footage of the monument sign.

l. Parking standards. A monument sign, together with landscaping at its base, may occupy an area of the site that would otherwise be devoted to meeting the off-street parking standards outlined in article V of this chapter. If a monument sign is sited in place of a parking space that would meet the standards of article V, the number of required off-street parking spaces may be reduced by one parking space.

m. Landscaping of sign islands. Shall conform to the City of Euless Unified Development Code (UDC) art. VII. Landscaping, fences, walls, screening and outdoor storage requirements and the following conditions:

1. Such landscaping shall consist of: a) all groundcover or turf if the sign island contains a tree; or b) two shrubs may be substituted for each ten square feet of groundcover or turf.

2. Landscaping installed in conjunction with signage requirements outlined in this section shall be counted toward required interior landscaping.

3. Shrubs shall be maintained at a maximum height of 24 inches.

(e) Special exceptions. Exceptions to these development standards may be granted through the procedures provided by this chapter.

(f) Additional standards and criteria for special exceptions and special use permits. The city council may authorize a sign as a special exception or approve a sign under a special use permit if the proposed use conforms to the following criteria:

1. The proposed sign is of a similar architectural scale to existing development in the district or will use an existing building for its purposes.

2. The proposed sign may be shared by other on-site businesses, or is designed to permit such sharing when and if it becomes feasible.

3. Council determination that the applicant has made a reasonable and good faith effort to comply with these regulations.

(Ord. No. 1472, § I, 5-8-01)

Secs. 84-118–84-129 Reserved

Division 3. Exceptions to District Site Development Standards

Sec. 84-130 Exceptions to district site development standards

Except as approved by the board of adjustment, only the specific exception to the district site development standards shall be permitted and then only when complying to the conditions, if any, specified.

(1) Height exceptions. Height regulations shall not apply to belfries, chimneys, church spires, conveyors, cooling towers, elevator penthouses, storage towers, flag poles, monuments, ornamental towers, cranes, construction equipment, stage towers and scenery lofts, water tanks, microwave relay stations, and radio and television transmission towers.

(2) Height extensions. A permitted nonresidential structure in any zoning district may exceed maximum height limits with a specific use permit, provided that there shall be an additional two feet of required yard setback for each one foot of additional height.

(3) Unobstructed open space. All required permeable areas shall be unoccupied and completely unobstructed except for meter pits extending not more than six inches above grade, lawn sprinklers, landscaping, ordinary and necessary service line conduits and poles for utilities, lighting fixtures, signs within the limits herein prescribed, or underground installations accessory to any permitted use.

(4) Front yard obstructions. Front yards on private streets may contain carports. However, in no case shall they be located nearer than two feet from the front property line, fire lane or private drive.

(5) Side yard projections. Sills, belt courses and cornices may project up to two feet into required side yard.

(6) Side yard exemptions. Side yards shall not be required for abutting nonresidential properties in the same zoning district if both properties are developed as a unit under a common development plan.

(7) Rear yard overhangs. Roof, balcony and porch overhangs may project up to four feet into required rear yards.

(8) Rear yard projections. Fireplace masses, bay windows and window boxes may project up to three feet into required rear yards.

(9) Rear yard exemptions. Where a lot fronts on two streets within 30 degrees of being parallel but not at their intersection, no rear setback shall be required.

(10) Front setback consistency. Where properties along one side of a street in the same block are zoned differently, the front setback of the most restrictive district shall apply to the entire block.

(11) Corner/reverse frontage setbacks. On the street side of corner lots, required side yards shall be not less than 15 feet in depth, and in the case of reverse frontage lots, there shall be a rear yard depth equal to the front yard depth of the lots to the rear.

(12) Lots of record. On any lot-of-record held under separate ownership from adjoining lots at the time of passage of this chapter, a single-family detached dwelling may be erected even though the lot may be of less area than required by the district in which it is located; provided, however, that the combined area of the dwelling and any accessory structures shall not cover more than 40 percent of the total lot area.

(13) Conflicting ordinances. Where a setback line has been established by another ordinance or by approved plat filed of record and such line requires a greater distance than is prescribed by this chapter for the district in which the building line is located, the minimum required setback shall comply with the line so established by such ordinance or approved plat filed of record.

(Ord. No. 1133, § 1(4-700), 3-22-94)

Secs. 84-131–84-139 Reserved

Division 4. Planned Development District

Sec. 84-140 "PD" planned development district

These regulations are designed to provide flexibility of planning and development of large scale, multi-use or in environmentally sensitive areas. The planned development district is a specific zoning district that is governed by specific plans approved by the city council.

(1) Permitted uses. Uses permitted in a "PD" district may include any one or combination of the uses set forth in Table 4-A, subject to the issuance of a specific use permit.

(2) Procedures. Prior to the issuance of a specific use permit or building permit for property located in a "PD" district, a general plan shall be submitted identifying proposed land uses, densities, major open spaces, circulation patterns and access features, and including a statement indicating proposed phasing of development and the projected timing of each phase. The commission shall review and forward the plan with its recommendation to the council. The council shall not approve a "PD" plan which has not been recommended for approval by the commission except by a favorable vote of 3/4 of all the members of the Council. advertisement and public hearing shall be held by the commission and council in accordance with the notification procedure set forth for a rezoning application.

(3) Minimum size requirement. A "PD" district may be authorized only on sites containing five or more acres, except in infill or transition areas where there shall be no minimum size requirements.

(4) Cluster housing. If the proposed "PD" project contains cluster housing, the minimum standards and requirements shall apply as set forth for cluster housing in the R-1A district.

(5) Development standards. In approving applications for the "PD" district, the council

may impose any reasonable requirements necessary to protect the public interest, adjacent properties and welfare of the community. The minimum requirements established shall be those of the least intensive district in which the use or uses are allowed.

a. Site development standards. The site development standard of the least intensive district in which the use or uses are allowed shall constitute the minimum site development requirements unless differing requirements are approved by council; provided, however, that the council may impose stricter requirements in order to minimize incompatibilities;

b. Parking regulations. Unless otherwise indicated on the approved site plan, the parking requirements set forth in article V of this chapter apply.

c. Sign regulations. Unless indicated on the approved site plan, the sign regulations as set forth in article VI of this chapter shall apply.

(6) Council waivers. In environmentally sensitive areas or in larger mixed use projects, the council is authorized to modify or waive any minimum development standards in consideration for superior site design standards and public improvements that are deemed to be in the public interest. Under no circumstances should the “PD” district be used as a device to circumvent minimum standards.

(7) Development schedule.

a. Application. The city council may require an application for a “PD” district be accompanied by a development schedule indicating the approximate date on which construction is expected to commence and the rate of anticipated development to completion. The development schedule, if approved by council, shall become part of the general plan and shall be adhered to by the owner, developer and his or her successors in interest. The administrator shall report annually to the commission the actual development accomplished as compared with the development schedule.

b. Failure to meet schedule. If in the opinion of the city council, the owner or owners of property are failing or have failed to meet the approved schedule, the city council may initiate proceedings to amend the zoning district map or the “PD” district by removing all or part of the “PD” district from the zoning district map and placing the area involved in another appropriate zoning district. Upon recommendation of the commission and for good cause shown by the owner and developer, the council may also extend or amend the development schedule as may be indicated by the facts and conditions of the case.

(8) All community unit developments. (CUD) Special planned unit developments (SPUD) that may have been approved prior to the adoption of these regulations shall comply with the site plan and conditions approved with its original adoption. Amendment to any CUD or SPUD shall require compliance with the PD regulations.

(9) Landscaping, screening and outdoor storage regulations. Unless indicated on the approved site plan, the landscaping, screening and outdoor storage regulations of article VII shall apply.

(Ord. No. 1133, § 1(4-800), 3-22-94)

Secs. 84-141–84-149 Reserved

Division 5. Specific Use Permits

Sec. 84-150 Specific use permits

The purpose of a specific use permit is to provide the council the opportunity to deny or to conditionally approve those uses for which specific use permits are required. These uses may have unusual physical or operational characteristics or may be of a public or semi-public character often essential or desirable for the general convenience and welfare of the community. Because, however, of the nature of the use, the importance of the uses' relationship to public planning policies, or possible adverse impact on neighboring property of the use, heightened review, evaluation, and exercise of planning judgment relative to the location and site plan of the proposed uses are required.

(1) Permit required. No land or building shall be used or occupied by any use requiring a specific use permit, as specified in Table 4-A herein, unless a specific use permit has first been issued in accordance with the provisions of this section.

(Ord. No. 1133, § 1(4-900), 3-22-94)

Sec. 84-151 Application procedure

(a) An application for a specific use permit shall be filed with the city planning department on a form prepared by the city. The application shall be accompanied by the following:

(1) A completed application form signed by the property owner;

(2) An application fee as established by the city's latest adopted "schedule of fees";

(3) A certificate stating that all city and school taxes have been paid current-to-date;

(4) A property description of the area where the specific use permit is proposed to apply;

(5) A site plan complying with the requirements stated herein which will become a part of the specific use permit, if approved, and;

(6) Any other material and/or information as may be required by the planning and zoning commission, the city council or the city manager to fulfill the purpose of this subsection and to ensure that the application is in compliance with the ordinances of the City of Euless.

(b) A site plan shall contain, at a minimum, the following information:

(1) Boundary of the area covered by the site plan;

(2) A description of all processes and activities involved in the proposed use;

(3) Existing and proposed buildings and structures, including their height, roof line, gross floor area, location of entrances and exits, areas for storage, and areas where work is performed;

(4) Existing drainage ways and significant natural features, such as large trees, tree clusters, steep slopes, etc.;

(5) Proposed landscaping and screening buffers;

(6) Location and dimensions of all curb lines, public and private streets, easements, parking and loading areas, pedestrian walkways, lighting facilities, and outside trash storage facilities;

(7) The location, height, and type of wall, fence and/or other type of screening; and

(8) The location, height and size of all proposed signs.

(c) The following additional information shall be provided prior to approval subject to the provisions of section 84-152.

(1) Any final environmental assessment and/or final environmental impact statement that may be required pursuant to state or federal statutes;

(2) Copies of studies or analyses upon which have been based projections for need or demand for the proposed facility;

(3) Copies of studies or analyses upon which alternatives have been considered and evaluated;

(4) Description of the present use, assessed value and actual value of the land affected by the proposed facility;

(5) Description of the proposed use, anticipated assessed value and supporting documentation;

(6) A description of any long term plans or master plan for the future use or development of the property;

(7) A description of the applicant’s ability to obtain needed easements to serve the proposed use;

(8) A description of the type, feasibility and cost of any proposed mitigation necessary to make the proposed use compatible with current and future land use patterns;

(9) A description of any special construction requirements that may be necessary for any construction or development on the subject property;

(10) If the proposed use will result in a significant increase in traffic, a traffic impact analysis prepared by a certified professional engineer qualified in the field of traffic engineering and forecasting;

(12) If the proposed use will result in the production of noise of 50 DBa at the property line from 10:00 p.m. through 7:00 a.m., or 55 DBa at the property line from 7:00 a.m. through 10:00 p.m., a map showing projected noise at 55, 60, 65, 70 and 75 ldn noise contours, data showing projected distribution of single event noise events for each half hour throughout the day, including expectant decibel levels and duration of noise events, and projected cumulative noise totals from all facility-related noise.

(Ord. No. 1133, § 1(4-901), 3-22-94)

Sec. 84-152 Waiver of permit requirements

Upon petition by the applicant showing that full compliance with the application requirements would be unreasonably burdensome and that the proposed building, structure, use, development or activity will have an insubstantial impact on the surrounding area, the city council, upon recommendation by the planning and zoning commission, may waive any part, or all, of the application requirements imposed by section 84-151.

The city council may grant such a waiver only upon finding that the information submitted is sufficient to determine that the proposed building, use, structure, development or activity will have an insubstantial impact on the surrounding area and that providing the information required by the submittal requirements is unreasonably burdensome on the applicant.

(Ord. No. 1133, § 1(4-902), 3-22-94)

Sec. 84-153 Conditions of permit approval

A specific use permit shall not be recommended for approval by the planning and zoning commission unless the commission finds that all of the following conditions have been found to exist:

(1) The proposed use complies with all the requirements of the zoning district in which the specific use permit is located;

(2) The proposed use as located and configured will contribute to or promote the general welfare and convenience of the city;

(3) The benefits that the city gains from the proposed use outweigh the loss of or damage to any homes, businesses, natural resources, agricultural lands, historical or cultural landmarks or sites, wildlife habitats, parks, or natural, scenic, or historical features of significance, and outweigh the personal and economic cost of any disruption to the lives, business and property of individuals affected by the proposed use;

(4) Adequate utilities, road access, drainage and other necessary supporting facilities have been or shall be provided;

(5) The design, location and arrangement of all public and private streets, driveways, parking spaces, entrances and exits shall provide for a safe and convenient movement of vehicular and pedestrian traffic without adversely affecting the general public or adjacent developments;

(6) The issuance of the specific use permit does not impede the normal and orderly development and improvement of neighboring vacant property;

(7) The location, nature and height of buildings, structures, walls and fences are not out of scale with the neighborhood;

(8) The proposed use will be compatible with and not injurious to the use and enjoyment of neighboring property, nor significantly diminish or impair property values within the vicinity;

(9) Adequate nuisance prevention measures have been or shall be taken to prevent or control offensive odors, fumes, dust, noise, vibration and visual blight;

(10) Sufficient on-site lighting is provided for adequate safety of patrons, employees and property and that such lighting is adequately shielded or directed so as not to disturb or adversely affect neighboring properties;

(11) There is sufficient landscaping and screening to ensure harmony and compatibility with adjacent properties;

(12) The proposed operation is consistent with the applicant's submitted plans, master plans, projections, or where inconsistencies exist, the benefits to the community outweigh the costs;

(13) The proposed use is in accordance with the city's comprehensive plan.

(Ord. No. 1133, § 1(4-903), 3-22-94)

Sec. 84-154 Additional conditions

In authorizing a specific use permit, the planning and zoning commission may recommend, and the city council may impose, additional reasonable conditions necessary to protect the public interest and the welfare of the community, including by way of example and without limitation thereto conditions that the specific use permit extend only to the applicant or for a specified term.

(Ord. No. 1133, § 1(4-904), 3-22-94; Ord. No. 1232, § 3, 4-8-97)

Sec. 84-155 Governmental immunity

Upon petition of the applicant, the city council may officially recognize that the applicant is immune from the requirements of complying with the city's zoning ordinance for a proposed building, structure, use, development or activity, (a) if required by state or federal statutes, or (b) in the absence of such statutes, upon consideration and balancing of all relative factors, including:

(1) The impact of zoning compliance upon a proposed building, structure, use, development or activity;

(2) The impact of a proposed building, structure, use, development or activity on the city;

(3) Whether the site selected is the most prudent and feasible location for the proposed building, structure, use, development or activity;

(4) The need of the applicant and the region for the proposed use, development or activity.

(Ord. No. 1133, § 1(4-905), 3-22-94)

Sec. 84-156 Time limit

A specific use permit issued under this section shall be valid for a period of two years from the date of issuance and shall become null and void unless construction or use is substantially under way during the two-year period, or unless an extension of time is approved by the city council.

(Ord. No. 1133, § 1(4-906), 3-22-94)

Sec. 84-157 Revocation of permit

A specific use permit may be revoked or modified, after notice and hearing for either of the following reasons:

(1) The permit was obtained or extended by fraud or deception;

(2) One or more of the conditions imposed by the permit has not been met or has been violated.

(Ord. No. 1133, § 1(4-907), 3-22-94)

Sec. 84-158 Amendments

The procedure for amending a specific use permit shall be the same as for a new application, provided, the administrator may approve minor variations from the original permit which do not increase density, change traffic patterns, or result in an increase in external impacts on adjacent properties or neighborhoods.

(Ord. No. 1133, § 1(4-908), 3-22-94)

Secs. 84-159–84-179 Reserved

Division 6. Supplemental Regulations Applicable to All Districts

Sec. 84-180 Established

In addition to the regulations for the zoning district in which the property is located the following supplemental regulations shall apply.

(Ord. No. 1133, § 1(4-1000), 3-22-94)

Sec. 84-181 Exterior facade requirements

(a) In order to enhance the overall visual image of the city and to encourage some degree of design consistency, exterior masonry facades on all structures shall be provided as specified in the district site development standard for that particular zoning district.

(1) Street facing walls. Street facing walls shall be deemed any exterior wall elevation visible from the street and having an angle of less than 80 degrees from the building line cord.

(2) Calculations. In determining the wall area, the entire elevation from the foundation to the top plate exclusive of doors, windows and other penetrations shall be used.

(3) Acceptable masonry facade material. Only the following materials shall be considered as meeting the masonry requirements in any zoning district: natural stone, brick, precast concrete panels, true stucco, and/or glazed (common smooth face masonry units or smooth tilt wall surface are specifically prohibited unless used in combination with other types of concrete masonry units, and architectural enhancements on tilt wall, and do not exceed 25 percent of the area covered by concrete masonry units or tilt walls).

(4) Exceptions to exterior masonry facade standards for R-1, R-1C, and R-1L zoning districts.

a. Maintaining existing masonry percentage for a remodel or reconstruction of existing residential structures: At the time a building permit application is made, the existing masonry facade percentage shall be maintained, or exceeded, on the front and side elevations of existing residential structures located in the following zoning districts: R-1, R-1C, and R-1L. An alternative building material, such as fiber cement board, is permissible as an acceptable facade material when applied to the rear elevation or second story addition to an existing garage.

b. Use of alternative building materials for a remodel or reconstruction of existing residential structures: At the time a building permit is issued, an exception for existing residential structures located in the following zoning districts: R-1, R-1C, and R-1L, remodel or reconstruction, may be granted to use an

alternative building material, such as fiber cement board, as an acceptable facade material when applied to the front or side elevation when meeting the following requirements:

1. The building official finds that literal enforcement of the masonry requirements will create unnecessary hardship because of extraordinary or exceptional physical condition(s) or situation(s), excluding financial hardship(s), unique to the specific piece of property. Such an exception would be granted based on information provided by a State of Texas registered structural engineer. Exceptions approved by the building official shall be in effect for only the structure specifically authorized by the building official and shall become null and void should no building permit be issued within 90 days or should the building permit for the specific structure expire.

2. Prior to the building official making a determination, all property owners within 200 feet of the applicant's property would be provided written notification regarding the applicant's proposed use of alternative building materials. These property owners are provided the opportunity to contact the building official for additional information and, within 15 days of such notice being sent out, to submit in writing to the director of planning and development, a protest to the applicant's request. If a written protest against such a proposal has been received by the director of planning and development from 20 percent or more of the property owners receiving notice, the determination to approve the proposal shall be considered by the city council.

3. The building official will provide the applicant written verification of the decision and sent by registered mail or by other means to establish that the applicant is in receipt of the correspondence.

(Ord. No. 1133, § 1(4-1001), 3-22-94; Ord. No. 1732, §§ 4, 5, 4-11-06; Ord. No. 1764, § 1, 1-23-06)

Sec. 84-182 Private water wells and wellhead protection zone

(a) Private water wells:

(1) Permit required. It shall be unlawful to drill a private water well within the city before first obtaining a building permit from the city.

(2) Private water wells; limits to uses; requirements.

a. Private water wells within the corporate limits of the city shall be limited to irrigation purposes only.

b. No private water well shall be utilized for domestic water purposes.

c. Private water wells shall not be connected to the domestic water supply in any

manner.

d. Irrigation systems supplied by a private water well shall not have any other supply connections from another water source unless the design and construction of such connection is approved by the city, and any switching between such private water well and any other source shall be done only by city employees.

e. All private water wells supplying water to an irrigation system shall have an approved double check valve assembly tested upon installation by a Texas Natural Resource Conservation Commission (T.N.R.C.C.) certified backflow prevention device tester or as required by T.N.R.C.C.

(3) Additional requirements.

a. Any water provided for irrigation purposes from the city's public water supply to nonresidential customers under this section shall be subject to a commercial supplemental irrigation rate, calculated as one and one-half times the commercial and industrial water service rate as provided in section 30-35 of this Code.

b. In addition to a water well permit, an electrical permit shall be obtained for any electrical installation in connection with the well.

c. The contractor or person drilling the well shall be licensed by the state and registered with the city.

d. Any person or firm performing electrical work shall be licensed by and registered with the city.

e. The water well permit application shall include a plot plan of the well site, showing the locations of the well and all structures and distribution lines in the vicinity.

f. All electrical work must be inspected and approved by city inspectors before placing the well into operation.

g. Water well contractors must provide verification of registration of the well with the Texas Department of Water Well Licensing and Regulations within 60 days of well completion.

h. The city has the legal authority to require the abandonment of an existing private water well if the well threatens the public water supply or the health of its citizens. All abandonment costs will be the responsibility of the owner. The abandonment procedures must comply with all applicable Texas Natural Resource Conservation Commission (T.N.R.C.C) Rules and Regulations.

i. All wells shall be, while either in use or abandoned, covered on the top so as to prevent a person from falling into the well. All abandoned wells not properly

covered shall be filled.

(4) Abandonment of private water wells. Abandonment of private water wells shall be done in accordance with T.N.R.C.C. requirements after proper notification to T.N.R.C.C.

(b) Wellhead protection zone: From and after the effective date [November 10, 1998] hereof, no new or additional fuel storage tanks or hazardous materials as defined by E.P.A. shall be located within 1,400 feet of any water well; no new or additional private water well shall be located within 1,400 feet of any fuel storage tank or hazardous materials as defined by E.P.A.; and no new or additional private water wells shall be located within 1,000 feet of any public water well. Exceptions to these prohibitions may be granted by the city council on a case-by-case basis provided that the council finds that such well or storage site will not adversely affect the public health, safety, or welfare. Exceptions approved by the council shall be in effect for only the well or storage site specifically authorized by council.

(Ord. No. 1345, 11-10-98; Ord. No. 1481, § 1, 6-26-01)

Sec. 84-183 Sexually oriented businesses

(a) The purpose of this section is to promote the health, safety, morals, and general welfare of the citizens by establishing reasonable and uniform regulations pertaining to sexually oriented businesses so as to prevent the concentration of such businesses within the city.

(b) Businesses fitting the definition of “sexually oriented business” as defined by this chapter, shall comply with the following locational requirements:

(1) No person shall operate or cause to be operated a sexually oriented business within 1,000 feet of a church, public or private elementary or secondary school, public park, public library, residential use, property zoned for residential use or another sexually oriented business.

(2) No person shall establish, operate, or cause to be operated, a sexually oriented business in any building structure or portion thereof containing another sexually oriented business.

(3) The distance between a sexually oriented business and any adjacent structures other than another sexually oriented business shall be measured in a straight line without regard to intervening structures or objects, from the nearest portion of the building or structure used as a tenant space occupied for a sexually oriented business to the nearest property line of the premises of a church, public or private elementary or secondary school, public park, public library, or residential use.

(4) The distance between any two sexually oriented business shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located or from the wall of the tenant space occupied as applicable.

(c) No person may operate or cause to operate a sexually oriented business without first

meeting the licensing requirements prescribed in chapter 18, article III.

(Ord. No. 1133, § 1(4-1003), 3-22-94)

Sec. 84-184 Performance standards

Except as otherwise provided herein, no land, building or structure in any district shall be used or occupied in any manner so as to create any dangerous, injurious, noxious, or otherwise objectionable fire, explosive, or other hazard; noise or vibration; smoke, dust, or other form of air pollution; heat, cold, dampness, electrical or other substance, condition or dangerous element in such a manner or in such amount as to adversely affect the surrounding area or adjoining premises. Permitted uses as set forth in this chapter shall be undertaken and maintained only if they conform to the regulations of this section. The following standards shall apply to the various zoning districts as indicated:

(1) Exterior noise. The following noise standards, unless otherwise specifically indicated, shall apply for all property within the city.

a. Residential district. For noise emanating from a facility on property located within any "R" residential district, the allowable noise level at any property line shall not exceed the following:

Time Interval	Allowable Exterior Noise Level
10:00 p.m. to 7:00 a.m.	50 dB(A)
7:00 a.m. to 10:00 p.m.	55 dB(A)

b. For noise emanating from a facility on property located within any "C" commercial district, the allowable noise level shall be as follows:

Time Interval	Allowable Exterior Noise Level
10:00 p.m. to 7:00 a.m.	65 dB(A)
7:00 a.m. to 10:00 p.m.	70 dB(A)

c. For noise emanating from a facility on property located within the "TX 10" or "LI" the maximum allowable noise level shall be as follows:

1. Properties within 150 feet of any residentially zoned property shall comply with exterior noise standard for "C" commercial districts.

2. Properties that are 150 feet or more from any residentially zoned property shall be subject to the exterior noise standards for the "I-1" light industrial district.

d. "I-1" light industrial district. For noise emanating from a facility on property located within the "I-1" light industrial district, the allowable noise level shall be 75 dB(A).

e. "I-2" heavy industrial district. For noise emanating from a facility on property located within the "I-2" manufacturing district, the allowable noise level shall be 85 dB(A).

f. All zoning districts. Noise emanating from property within any zoning district may not exceed:

1. The allowable noise level plus up to five dB(A) for a cumulative period of no more than 30 minutes in any hour; or

2. The allowable noise level plus six to ten dB(A) cumulative period of 15 minutes in any hour; or

3. The allowable noise level plus 11 to 15 dB(A) for a cumulative period of five minutes in any hour; or

4. The allowable noise level plus 16 dB(A) or more for a cumulative period of one minute in any hour.

g. Ambient noise. In the event the ambient noise level exceeds the allowable noise levels in subparagraphs b., c., and d. above, the allowable noise level for the property in questions shall be increased to equal the maximum ambient noise level.

h. Noise sources not included. For the purpose of determining compliance with the noise standards in this section, the following noise sources shall not be included:

1. Noises not directly under the control of the property owner, occupant, or operator of the premises.

2. Noises emanating from construction, grading, repair, remodeling or any maintenance activities between the hours of 7:00 a.m. and 8:00 p.m.

3. Noises of safety signals, warning devices and emergency pressure relief valves.

4. Transient noise of mobile sources, including automobiles, trucks, aircraft, and railroads.

5. Activities conducted on public parks, playgrounds and public or private schools.

6. Occasional outdoor gatherings, public dances, shows and sporting and entertainment events, provided said events are conducted pursuant to a permit issued by the appropriate jurisdiction relative to the staging of said events.

7. Air conditioning or refrigeration systems or associated equipment.

i. General standards regarding noise measurement. For the purpose of determining compliance with this section, noise levels are to be measured at any residential property line within any permanent residential zoning district.

j. Standards regarding noise measurement for pre-existing manufacturing uses. For the purpose of determining compliance with the foregoing subparagraphs c. through f., and with regard to noise emanating from property already zoned manufacturing at the time this chapter is enacted, noise levels are to be measured at residential property lines within residential zoning districts as such residential zoning district lines exist at the time this chapter is enacted.

(2) Vibration. No vibration from any use within any zoning district shall be permitted which is perceptible without instruments at any residential property line within any permanent residential zoning district. For the purpose of determining compliance with this standard, and with regard to vibration generated from any property already zoned manufacturing at the time this chapter is enacted, vibration is to be measured at residential property lines within residential zoning districts as such residential zoning district lines exist at the time this chapter is enacted.

(3) Glare. Primary and secondary glare (both direct and reflective) having a source on private property shall not be permitted to produce visual discomfort for viewers on other property in any residential zoning district or on adjacent street rights-of-way. Direct glare which produces visual discomfort is to be corrected or avoided by reducing the intensity of the light source and/or the uses of directional lighting or shading devices. Welding, new construction and repairs of facilities shall be exempt from these regulations. Provided, however, that no requirements will be imposed in derogation of federal or state safety and health regulations.

(4) Particulate air contaminants. No emissions, dust, fumes, vapors, gases, or other forms of air pollution shall be permitted in violation of the rules and regulations of the state air control board and the environmental protection agency.

(5) Exceptions from performance standards. The owner or operator of any building, structure, operation or use which violates any performance standards may file an application for a variance from the provisions thereof wherein the applicant shall set forth all actions taken to comply with said provisions and the reasons why immediate compliance cannot be achieved. The board may grant exceptions with respect to the time of compliance, subject to such terms, conditions and requirements as it may deem reasonable to achieve maximum feasible compliance with the provisions of this section of the chapter. In its determinations, the board shall consider the following:

a. The magnitude of the nuisance caused by the violation.

b. The uses of property within the area of impingement by the violations.

c. The time factors related to study, design, financing and construction of

remedial work.

d. The economic factors related to age and useful life of the equipment.

e. The general public interest, welfare and safety.

(6) Exemptions. The provisions of this section shall not apply to manufacturing uses or expansions thereof upon adjacent property, which exist within the city on the effective date of this chapter.

(Ord. No. 1133, § 1(4-1004), 3-22-94)

Secs. 84-185–84-199 Reserved

ARTICLE V. OFF-STREET PARKING, LOADING AND DRIVEWAY STANDARDS

Sec. 84-200 Purpose

The purpose of this article is to require off-street parking and loading facilities proportional to the need created by each use, to discontinue nonconforming driveways and to require driveways to conform to the minimum access standards contained herein. Development regulations and design standards are intended to insure the usefulness of parking and loading facilities, protect the public safety, and where appropriate, to mitigate the potential adverse impacts on neighboring properties.

(Ord. No. 1133, § 1(5-100), 3-22-94)

Sec. 84-201 Off-street parking

(a) Applicability. Off-street parking facilities shall be provided for any new building constructed and for any new use established. Off-street parking facilities shall be provided for any addition or enlargement of an existing building or use, or any change of occupancy or manner of operation that would result in additional parking spaces being required, provided that the additional parking shall be required only for such addition, enlargement, or change and not for the entire building or use.

(b) Existing facilities. Facilities being used for off-street parking on the effective date of this chapter shall not be reduced in capacity to less than the number of spaces prescribed, or altered in design or function to less than the minimum standards prescribed herein.

(c) Multiple uses. For sites with more than one use, or for adjacent sites served by a common parking facility, the parking requirement shall be the total number of spaces required for each site or use, except as adjusted pursuant to the joint use provisions herein.

(d) Future construction. Parking facilities constructed or substantially reconstructed subsequent to the effective date of this chapter, whether or not required, shall conform to the design standards set forth herein.

(e) Maintenance and use. All required parking facilities and associated drive access shall be maintained for the duration of the use requiring such areas. Such facilities shall be used exclusively for the temporary parking of passenger automobiles, motor vehicles, or light trucks not exceeding one ton in capacity, and shall not be used for the sale, display, or storage of merchandise, or for the storage or repair of vehicles or equipment.

(f) Parking on paved surface required. Except as otherwise provided, it shall be unlawful for any person to park or to cause, suffer, maintain or allow to be parked upon any property under his control any vehicle, including but not limited to an automobile, truck, motorcycle, motorhome, camper, trailer, boat or mobile home, except upon the surface as specified in Table 5-A-1 unless:

(1) The vehicle is parked within a rear or side yard of a one- or two-family residence and is screened from view from adjacent properties and public streets with a landscaped buffer or screening fence in accordance with section 84-336(b)(1) (landscape screen) or (b) (wood fence screen) of this chapter, or;

(2) The property is zoned for single-family use and the residence existing thereon was originally constructed prior to July 12, 1977, and which had when constructed, only a one-car garage or which had no garage.

(3) A special exception has been granted by the board of adjustments because of unique circumstances which make complying with this paragraph unreasonable and the board of adjustments finds the approval of such request will not be detrimental to adjacent properties in the city and is not contradictory to the purpose of this article or spirit of this chapter.

The maximum paved area devoted to parking on properties zoned for one- or two-family dwellings shall not exceed 50 percent of the street yard unless a special exception has been granted by the board of adjustment consistent with the criteria described above in subsection (f)(3).

(g) Schedule of parking space requirements. The minimum number of off-street parking spaces to be provided shall be as follows (refer to Table 5-A for relation of parking groups to permitted uses):

Table 5-A. Parking Group Schedule

Group	Minimum Number of Off-Street Parking Spaces
1	1 per unit
2	1 per unit plus .5 per bedroom and 1 guest space per every 5 units
3	2 per unit
4	1 per 50 sq. ft. of gross floor area plus 12
5	1 per 100 sq. ft. of gross floor area
6	1 per 200 sq. ft. of gross floor area
7	1 per 250 sq. ft. of gross floor area
8	1 per 300 sq. ft. of gross floor area
9	1 per 400 sq. ft. of gross floor area
10	1 per 500 sq. ft. of gross floor area

11	1 per 600 sq. ft. of gross floor area
12	1 per 800 sq. ft. of gross floor area
13	1 per 1,000 sq. ft. of gross floor area
14	1 per 1,000 sq. ft. of gross site area
15	1 per 1,500 sq. ft. of gross site area
16	1 per 3 students
17	1 per 5 students
18	1 per 15 students
19	1 per 25 students
20	1 per employee on largest shift
21	1 per bay or pump island
22	1 per 4 beds
23	1 per 4 seats
24	1 per 6 machines
25	5 per hole
26	5 per alley or table
27	3 queuing spaces per bay or stall
28	5 queuing spaces per bay or stall

(h) Design standards.

(1) Dimensions. An off-street parking space shall include an area of not less than 162 square feet, measured approximately nine feet by 18 feet, and shall not be located on a public street or alley. Maneuvering aisles shall generally measure 24 feet in width.

(2) Surfacing. All off-street parking areas, loading and unloading areas, access driveways, alleys and fire lanes shall be paved as specified below in Table 5-A-1; excepting single-family (SF1) structures that exist prior to the effective date of Ordinance No. 1339. Parking areas include parking spaces enclosed or unenclosed, aisles, display, storage, staging, mutual access, and maneuvering areas. All areas shall be graded to drain in such a manner that the runoff shall be properly channeled into a storm drain watercourse area or other appropriate facility. All sidewalks shall be paved as specified in Table 5-A-1.

TABLE 5-A-1
MINIMUM PAVING STANDARDS

Paving Class		
Pavement Use	**1 & 2 Family**	**Commercial, Industrial & Multifamily**
Motor Vehicle Parking, Maneuvering, Storage, Display, Staging, Etc.	2	2
Temporary Motor Vehicle Parking Longer than 6	2	2

Weeks, Less than 1 Year		
Temporary Motor Vehicle Parking In Conjunction with Special Event (5 days to a max. duration of 90 days)	1	1
Dumpster Pads and Approaches (Trash Collection Areas)	N/A	5
Fire Lanes, Permanent	N/A	5
Fire Lanes, Temporary Less than 1 Year	N/A	3
Loading, Unloading, Mutual Access Drives	N/A	5
Alleys	5	N/A
Driveway, Within R.O.W.	4	5
Driveway, Private Property	2	N/A
Sidewalks, R.O.W., Easement or Private Property	2	2

PAVING CLASS DESIGNATION

1. Two (2) inch gravel minimum.

2. Concrete 4" thick, 3000 psi., #3 bars @ 24" centers each way.

3. Asphalt 2" Type “B” HMAC Base + 2" Type “D” HMAC Surface.

4. Concrete 5" thick, 550 psi. (flexural), #3 bars @ 18" centers each way.

5. Concrete 6" thick, 650 psi. (flexural), #4 bars @ 18" centers each way.

GENERAL NOTES

A. All subgrades for Class 3 and higher shall be stabilized with a minimum 6% hydrated lime slurry or cement slurry to a minimum depth of 6". Soils testing and analysis is required for Class 3 pavement and higher and Class 2 pavement in commercial, industrial and multifamily uses. Class 2 motor vehicle parking, maneuvering, storage, display and staging areas shall require a minimum of 6" scarified and compacted subgrade. Lime or cement stabilization are recommended.

B. Alternate designs may be required or permitted by the city engineer based upon proposed use and soil reports & analysis of a Texas Registered Professional Engineer.

C. Reinforcing steel shall be supported by chairs.

D. Two-inch extra depth concrete may be permitted in lieu of lime or cement stabilization in unique situations upon approval of the city engineer.

E. Temporary fire lanes shall only be permitted with the approval of the fire marshal's office and shall conform to the design and layout criteria established by the fire marshal's office.

F. Construction details for Pavement Classes 2-5 are provided in the city's standard detail sheets.

(3) Configuration. Head-in parking adjacent to a public street or alley, wherein the maneuvering or vehicles in entering or leaving the space must be done off a public street or alley, shall be prohibited; however, this does not apply to single-family and two-family dwellings.

(4) Calculation. In determining the required number of parking spaces, fractional spaces shall be rounded upward to the nearest whole space. Service bays located in repair garages or car washes shall not be counted as meeting required minimum parking.

(5) Joint use. Where a lot or tract of land is used for a combination of uses, off-street parking requirements shall be the sum of the requirements for each type of use and no space provided for one type of use shall be included in computing the requirements for any other use. Floor area devoted to off-street parking shall be excluded in computing floor area for off-street parking requirements.

(6) Availability. Except for institutional uses, required off-street parking for all permitted uses shall be available to customers, employees, tenants, clients and occupants on a prearranged basis, other than an hourly or fee basis, as free or contract parking.

(7) Remote location. Required off-street parking for permitted residential uses shall be provided on the lot or tract occupied by the primary use. For all other permitted uses, off-street parking may be provided on the tract occupied by the primary use or upon another tract within 300 feet from the primary use and dedicated to parking use by an instrument filed for record and consolidated under a single certificate of occupancy with the primary area. Such parking facility shall be located in the same zoning district as the main use and meet all design standards set forth herein.

(8) Required parking for one- and two-family dwellings.

a. New construction–All required off-street parking serving new one- or two-family dwellings shall be covered with a garage, a carport or combination thereof. The covered parking shall be located behind any applicable building line and in no instance less than 20 feet from the street or alley right-of-way line the required parking is accessed from except R-1C (single-family custom dwelling district). Covered parking for the R-1C is required to be located to the rear of the lot behind any applicable building line and shall not be located less than 40 feet from the street right-of-way line the required parking is accessed from. No

more than 50 percent of the total street yard shall be paved.

b. Garages which have had one or more of the vehicle parking areas permanently enclosed are permitted only in R-1 (single-family detached dwelling district). Two concrete paved parking spaces must be provided when enclosing a one- or two-car garage.

(9) Site plan required. Any person establishing an off-street parking facility or applying for a building permit for the construction, reconstruction, or alteration of the use of any building, other than a single-family residence, shall submit to the administrator a site plan designating the number, dimensions and location of off-street parking spaces to be provided. The administrator shall approve or disapprove the off-street parking facilities designated on the site plan and shall designate curb cuts to service the property.

(10) Pedestrian access. Pedestrian access to buildings shall be provided from parking areas by means of pathways leading to at least one public entrance. Such pathways shall be cleared of all obstructions related to construction activity prior to the opening of the building to the general public. Where curbs exist along such pathway, as between a parking lot surface and sidewalk surface, inclined curb approaches or curb cuts having a gradient of not more than one foot in 12 feet and width of not less than four feet shall be provided for access by wheelchairs.

(11) Handicapped spaces. Designated parking spaces shall be reserved for the physically handicapped as set forth in Table 5-B. Each space so reserved shall be not less than 12 feet in width. Parking spaces for the physically handicapped shall be appropriately signed in accordance with state statutes and be located as near as possible to elevators, ramps, walkways and entrances and shall not be located so that such persons are compelled to wheel or to walk behind parked cars to reach entrances, ramps, walkways and elevators. One in every eight parking spaces for the handicapped, but not less than one, shall be served by an access aisle 96 inches (2440 mm) wide minimum and shall be designated “van accessible.” All applicable ADA requirements for parking spaces must be met.

Table 5-B. Handicapped Space Schedule

Total Parking in Lot	Required Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1,001 and over	20 plus 1 for each 100 over 1,000

(i) Lighting.

(1) Definitions. For purposes of this subsection, “covered parking facility” includes but is not limited to parking structures and parking shelters, whether the sides of such are open or enclosed.

(2) Illumination required.

a. Required illumination levels in this section shall be met by all projects for which a site plan has not been approved by the effective date of passage of this section. In addition, it is the intent of this section that nonconforming properties will eventually meet the standards contained herein. Existing properties shall come into compliance with the requirements of this section in the following situations:

1. At the time of replat;

2. When a new certificate of occupancy is required due to a change in the occupancy type of the property;

3. When a building permit is issued for reconstruction or renovation of more than 51 percent of the replacement value of a structure;

4. When a building permit is issued for substantial expansion of an existing building. Whether expansion is “substantial” shall be determined by staff on a case by case basis;

5. When public safety officials and/or the city engineer determine that an imminently dangerous situation exists on a specific property, city council may set a date by which that property must come into compliance with the conditions and requirements of this section, after which date city staff may enforce this section on that property.

b. Required minimum initial illumination levels shall be met prior to final inspection. Slightly lower minimum levels of illumination may be acceptable when caused by the existence of a natural obstruction such as a tree.

c. Subsequently, required minimum maintained illumination levels (minimum on pavement for open areas, average on pavement and vertical for covered areas) shall be met during the hours of operation of any business for which an off street open parking lot or covered parking facility contains required parking, and continuously for any off street multifamily residential parking, as measured without the presence of cars or other temporary obstructions. All covered parking facilities, which includes parking structures and parking shelters, shall also provide the following:

1. No less than ten percent of the required minimum maintained average on

pavement and vertical illumination levels at all times;

2. Lighting fixtures located strategically to provide a minimum illumination level of no less than ten percent of the required average on pavement and vertical values in case of an interruption to the normal power supply.

(3) Maximum uniformity ratio. The maximum uniformity ratio (the ratio of average to minimum illuminance) of any contiguous off street open parking areas, service drives, and/or driving lanes in parking areas and of any covered parking facility, shall be no more than 4:1.

(4) Minimum illumination levels for open parking areas. Minimum illumination levels measured on the pavement for all off street open parking areas, service drives, and/or driving lanes in parking areas shall be as follows. Minimum initial illumination levels measured on the pavement shall be no less than 30 percent above the latest published Illuminating Engineering Society of North America (IESNA) standards for general parking and pedestrian areas with the levels of activity indicated below, and minimum maintained illumination levels shall meet or exceed the above referenced IESNA standards. If a use falls into more than one category listed below, the higher illumination level requirements shall govern.

a. IESNA standard for general parking and pedestrian areas with a high level of activity:

1. Regional shopping centers (buildings over 300,000 square feet);

2. Eating establishments (drive thru), detached;

3. Amusement and recreational services category, UDC Section 84-84, Table 4-A (includes golf courses);

b. IESNA standard for general parking and pedestrian areas with a medium level of activity:

1. Community shopping centers (buildings 100,001 to 300,000 square feet);

2. Housing in the TH, MH, R-3, R-4, R-5 residential categories

3. Hospitals and emergency care clinics;

4. Municipal facilities, including parks;

5. The following categories in UDC Section 84-84, Table 4-A: office uses, retail uses, personal services, business services, automotive services, miscellaneous repair services, trucking/warehousing and wholesale trade transportation facilities;

c. IESNA standard for general parking and pedestrian areas with a low level of activity:

1. Neighborhood shopping centers (buildings 30,001 to 100,000 square feet);

2. Convenience shopping centers (buildings 0 to 30,000 square feet);

3. The following categories in UDC Section 84-84, Table 4-A: institutional and educational facilities (includes churches) and manufacturing activities.

(5) Minimum illumination levels for covered parking.

a. For any covered parking facility, initial average on pavement illumination levels, as well as initial vertical illumination levels as measured six feet above the pavement, shall be no less than 30 percent above the latest published Illuminating Engineering Society of North America (IESNA) standards for covered parking facilities. Maintained average on pavement illumination levels, as well as maintained vertical illumination levels as measured six feet above the pavement, shall meet or exceed the above referenced IESNA standards.

b. Stairway illumination shall initially be no less than 30 percent above the latest published Illuminating Engineering Society of North America (IESNA) range of illuminances for stairways in covered parking facilities, and maintained at a level that meets or exceeds the above referenced IESNA range of illuminances.

(6) Fixtures.

a. Parking and site lighting fixtures including poles shall be compatible in color and design with the largest occupiable building. Lighting fixtures can be mounted on new and existing poles and structures for purposes of meeting the requirements of this section, with the stipulations below.

b. All parking lot or site lighting fixtures which are installed on poles after the effective date of this section [December 8, 1998] must be placed on metal poles.

c. Properties with townhome, mobile home, or multifamily apartment uses, or which are in TH, MH, R-3, R-4, or R-5 zoning categories: Poles made of materials other than metal which are used for parking or site lighting as of December 8, 1998 are allowed to remain and can be used to meet the requirements of this section.

d. Properties with commercial or industrial uses, or which are in TX-10, TX-121, C-1, C-2, LI, I-1, or I-2 zoning: Wood poles may not be used for parking lot or site lighting. Poles made of materials other than metal which are used for parking or site lighting as of December 8, 1998 must be removed by December 31, 2003. Their replacement with metal poles is encouraged.

e. Appurtenances must be placed underground for all parking and site lighting fixtures and poles that are installed after December 8, 1998.

f. Cutoff and semicutoff design fixtures are not mandated, but may be required in some cases if the director of planning and development or designee determines that other fixture types will result in light trespass in violation of this section.

g. All lighting required by this section shall be controlled by a photo cell or seasonally-adjusted timer switch.

h. Each lighting fixture must be in good working order at all times on all properties in the City of Euless, whether or not other conditions and/or restrictions of this section apply to the property.

(7) Lamps. Monochromatic light sources, such as low pressure sodium lamps, are prohibited. All other lighting types are allowed, as long as the illumination provided meets the conditions and requirements of this subsection.

(8) Light trespass. All lighting used to illuminate off street open parking areas, service drives, and/or driving lanes in parking areas and in all covered parking facilities shall be so arranged as to minimize light trespass onto adjacent rights-of-way and properties that are zoned or used for other than residential purposes, and to eliminate light trespass onto adjacent residentially zoned or used properties. For purposes of this section, “light trespass” includes:

a. The illumination of properties other than the one on which the fixture is located; and

b. Excessive brightness in the normal field of vision (nuisance glare).

In no case shall lighting be permitted to create dangerous traffic safety conditions.

(9) Enforcement. When properties are required to come into conformance with the requirements of this subsection, as described in subsection (1), above, the site plan (for new developments), or the replat, certificate of occupancy, or building permit application (for existing properties) shall contain the following information. City construction and building inspectors will verify that fixtures have been installed as described on the lighting plan before a certificate of occupancy will be issued:

a. A lighting plan showing the locations and general throw patterns of parking lot lighting fixtures; a graph of footcandles and distance from light fixtures that demonstrates compliance with this subsection; and a lighting table that lists type of luminaire, pole height, wattage at installation for each fixture; and

b. The seal of a registered architect or engineer, as well as a note stating: “The property represented on this plan conforms with the parking lot lighting requirements of Section 84-201(i) of the Unified Development Code of the City of Euless, Texas.”

(10) Exceptions. Exceptions to these requirements may be granted by the city council on a case-by-case basis provided that the council finds that a proposed alternative may better serve the public interest. Exceptions approved by the council shall be in effect for only the site and occupant specifically authorized by council.

(Ord. No. 1133, § 1(5-200), 3-22-94; Ord. No. 1326, §§ 1-10, 5-26-98; Ord. No. 1338, § I, 12-8-98; Ord. No. 1339, §§ I, II, 3-23-99; Ord. No. 1536, § 1, 9-10-02)

Sec. 84-202 Off-street loading requirements

Off-street facilities shall be provided and maintained for receiving and loading merchandise, supplies and materials within a building or on the lot or tract adjacent thereto. Off-street loading spaces may be adjacent to a public alley or private service drive or may consist of a truck berth within the structure with no portion of the loading space extending into the public right-of-way or fire lane. At least half of all required off-street loading spaces shall have a minimum dimension ten by 40 feet and the remainder shall have a minimum dimension of ten by 20 feet. Adequate space shall be provided on-site for maneuvering into and out of required loading spaces. Such spaces shall be provided in accordance with Table 5-C.

Table 5-C. Off-Street Load for Nonresidential

(1) Business and manufacturing uses.

Gross Floor Area (square feet)	Minimum Required Spaces
0 to 10,000	1
10,000 to 50,000	2
50,000 to 100,000	3
Each additional 100,000	1

(2) Hotel or office uses.

Gross Floor Area (square feet)	Minimum Required Spaces
Under 50,000	0
50,000 to 150,000	1
150,000 to 300,000	2
50,000 to 100,000	3
500,000 to 1,000,000	4
Each additional 500,000	1

(Ord. No. 1133, § 1(5-300), 3-22-94)

Sec. 84-203 Driveways

The city engineer shall have the authority to interpret and enforce minimum access standards as contained herein and to require additional access when deemed necessary by the

engineers, based on standards contained in the Institute of Transportation Engineers publication “Transportation and Land Development,” C 1988, and as updated. The city engineer shall have the right to require modifications to any driveway if the city engineer determines the driveway to be unsafe.

(Ord. No. 1133, § 1(5-400), 3-22-94)

Sec. 84-204 Location of driveways

(a) The curb return radius of driveways intersecting public streets shall be located no closer to the nearest right-of-way line of the nearest adjacent public street intersections than the minimum distances shown in Table 5-D. A platted lot with less frontage than the minimum distance required may be required to obtain access rights across adjacent property to a driveway meeting these requirements.

(b) Driveways intersecting arterial streets with median dividers shall align with existing or planned median openings or be located a minimum distance along the property line of 125 feet from the nearest point of median opening as measured from the nearest median nose to the throat of the driveway. Median access may be achieved by means of access rights obtained by mutual agreement with an adjacent property owner with driveway access meeting these requirements.

Table 5-D. Minimum Clearance of Driveways From Nearest Intersecting Street Right-of-Way

Type of Street Intersected	Type of Adjacent Street Intersected	Minimum on Departure	Clearance Distance on Ap
Arterial	Arterial	150 feet	150 feet
Arterial	Collector	100 feet	70 feet
Arterial	Minor	70 feet	50 feet
Collector	Arterial	100 feet	100 feet
Collector	Collector	70 feet	50 feet
Collector	Minor	50 feet	50 feet
Minor	Arterial	30 feet	30 feet
Minor	Collector	20 feet	20 feet
Minor	Minor	10 feet	10 feet

(Ord. No. 1133, § 1(5-401), 3-22-94)

Sec. 84-205 Driveway access prohibited

A driveway serving a primarily residential land use shall not directly access an arterial street facility. A driveway serving a primarily commercial or industrial land use shall not be allowed to access a public residential alley.

(Ord. No. 1133, § 1(5-402), 3-22-94)

Sec. 84-206 Number of driveways

(a) No single platted lot shall be allowed a cumulative driveway width greater than 50 percent of the total platted frontage on each street that is accessed.

(b) All one- or two-family land uses shall be allowed a maximum of one driveway opening per public street or alley except as provided by the approval of circular driveway access.

(b) All land uses other than one- or two-family land uses shall be allowed a maximum number of driveways as indicated in Table 5-E. Driveways approved and constructed on property lines perpendicular to the accessed street to provide mutual or common access shall be considered in addition to the maximum number of driveways permitted by Table 5-E.

Table 5-E. Maximum Number of Driveways Allowed

Length of Public Street Frontage	Maximum Number of Driveway Openings
200 feet or less	1
200 feet or more	1/200 feet

(Ord. No. 1133, § 1(5-403), 3-22-94)

Sec. 84-207 Spacing of driveways

(a) Successive driveways located on the same platted property shall be located no closer together than 50 feet as measured between the adjacent driveway throats or the sum of the adjacent curb radii of the two driveways plus a 25-foot tangent length, whichever is greater. A one-way driveway pair shall be separated by a minimum distance equal to the sum of the two adjacent curb radii as measured between the adjacent driveway throats, with a minimum two feet radius and maximum of five feet radius. On circular driveways a minimum of 25 feet of stand up curb between driveway curb radii shall be required.

(b) Adjacent driveways on adjacent platted properties shall be located no closer together than the sum of the two adjacent curb radii as measured between the adjacent driveway throats. A common driveway on a property line may be allowed or required by the city engineer. An access easement shall be required and the driveway shall conform to all other design standards.

(Ord. No. 1133, § 1(5-404), 3-22-94)

Sec. 84-208 Design standards

(a) Driveway types. Driveways shall be classified as follows:

(1) Standard driveways provide two-way access movements at single, undivided curb opening.

(2) One-way driveways provides one way access movements and can only be permitted when the orientation of on-site circulation and parking layout clearly utilize the driveway for one-way movements.

(3) High capacity/limited movement driveways are intended to provide two-way access

movements with geometric provisions to more adequately respond to greater driveway volumes and/or access limitations than a standard driveway provides, to include greater width, curb radii, provision of internal storage, divider median and on-street deceleration lanes.

(4) Circular driveways which provide one or two-way access to and from single-family residential property only, by means of two curb openings on the same property.

(b) Driveway width. Driveway widths shall be measured between the termination of the curb radii at a point of tangency essentially perpendicular to the street and shall be in accordance with the requirements of Table 5-F for the type of driveway and land use shown.

Table 5-F. Minimum/Maximum Width of Driveways

Driveway Type	Land Use	Minimum (feet)	Maximum (feet)
Standard	Residential	10	24
Standard	Commercial/multifamily	25	40
Standard	Industrial	30	50
One-way	Residential	n/a	n/a
One-way	Commercial/multifamily	15	25
One-way	Industrial	15	25
Circular	Residential	10	15
Circular	Commercial/multifamily	n/a	n/a
Circular	Industrial	n/a	n/a

(1) High capacity/limited movement driveways shall be composed of the combination of an entrance lane width, exit lane width and median width (if applicable) and in accordance with the minimum requirements of Table 5-G.

Table 5-G. High Capacity Driveway-Minimum/Maximum Width

	Minimum (feet)	Maximum (feet)
Entrance lane	16	24
Exit lane		
One lane	12	16
Two lane	24	24
Median (if applicable)	4	10

(2) Circular driveways shall apply to residential land uses only and shall require a minimum lot frontage of 60 feet. The inside radius of the driveway shall be tangent to the inside curb return radius approximately perpendicular to the street.

(c) Driveway curb radii. Driveway curb radii shall be in accordance with Table 5-H for the type of driveway and land use shown. Driveway radii shall be constructed to meet the street edge of pavement or curb at a point of tangency and shall describe a full quarter circle arc from the street onto the property accessed.

Table 5-H. Minimum/Maximum Curb Radii

Driveway Type		Radius (feet)	
	Land Use	**Minimum**	**Maximum**
Standard	Residential	5	15
Standard	Commercial/multifamily	15	30
Standard	Industrial	25	50
One-way	Residential	n/a	n/a
One-way	Commercial/multifamily	15	30
One-way	Industrial	25	40
Circular residential	Outside radius	5	15
	Inside radius	5	15
Circular	Commercial/multifamily	n/a	n/a
Circular	Industrial	n/a	n/a

(1) High capacity/limited movement driveway shall be constructed to serve the greater driveway volumes and/or limitation of movements. Curb radii features shall be a minimum of five feet where turning movements are to be prohibited or discouraged and a maximum of 50 feet where turning movements are allowed.

(d) Internal storage shall be provided at nonresidential driveways, to minimize vehicle conflicts at the driveway entrance in accordance with Table 5-I.

Table 5-I. Internal Storage Requirements

Number of Parking Spaces per Driveway	Minimum Storage Length (feet) Measured Back from Property Line
Less than 50	18
50 to 200	50
More than 200	78

(e) All driveways shall intersect the public street at essentially right angles except that one-way driveways may intersect at angles no less than 45 degrees.

(f) Vertical design criteria shall include a maximum driveway grade of ten percent. Maximum “breakover” angles, being the algebraic difference in successive grade changes, shall be 12 percent for summit condition and eight percent for sag conditions.

(g) Driveways utilized for direct access to designated fire lanes shall be constructed in accordance with criteria established by the fire marshal to permit unimpeded access for emergency fire equipment.

(Ord. No. 1133, § 1(5-405), 3-22-94)

Sec. 84-209 Nonconforming access driveway

It is the declared purpose of this article that nonconforming driveways be discontinued and that driveways be required to conform to the regulations prescribed herein having due regard for the investment in such nonconforming driveways.

Any driveway access which does not conform to the provisions of this article but legally existed as a conforming driveway prior to the adoption of this article shall be permitted to continue as a nonconforming access driveway. Such nonconforming access driveway may be continued until:

(1) A change of use, or an increase in intensity of use, occurs such that this article requires an additional five parking spaces or a ten percent increase in parking spaces, whichever is greater; or the addition of a use which requires stacking required by this article occurs. This provision shall be cumulative for any site from the effective date of this article.

(2) A significant rehabilitation of a structure is requested which amounts to 40 percent of the floor area or 40 percent of the appraised value.

(3) A modification is made to any existing access on site.

In the event any of the above criteria is met, the driveway shall be considered illegal and the city engineer may require driveway access to meet the requirements of this article. No certificate of occupancy shall be issued on property containing an illegal access driveway required to be discontinued under this section, unless and until all applicable standards contained in this chapter are met.

(Ord. No. 1133, § 1(5-406), 3-22-94)

Sec. 84-210 Appeal

Decisions of the city engineer regulating the provisions contained herein may be appealed to the board of adjustment within ten days of the date of the decision.

The board of adjustment may vary the provisions of this article where physical impossibility prevents compliance. “Physical impossibility” means that the property owner cannot meet the standards of the article to achieve one point of access to a public street and a mutual access easement is impractical. Financial hardship shall not constitute physical impossibility.

The board of adjustment may hear an appeal of the city engineer’s interpretation of the provisions of this article. If the board determines that the city’s engineer’s interpretation is correct, no variance may be permitted.

Decisions of the board of adjustment may be appealed to district court within ten days of the date of the decision. Appeal shall be by writ of certiorari.

(Ord. No. 1133, § 1(5-407), 3-22-94)

Secs. 84-211–84-229 Reserved

ARTICLE VI. SIGNS AND STREET GRAPHICS REGULATIONS*(84)

Division 1. Generally

Sec. 84-230 Purpose and intent

The purpose of this article is to represent a comprehensive, balanced system of street graphics and signs that create safe, easy to understand and aesthetically pleasing communication. To meet this purpose these regulations authorize the use of street graphics and signs which are reflective of the community's aesthetics as a whole, are compatible with their surroundings, while allowing the expression of the identity of individual proprietors, appropriate to the type of activity to which they pertain, and legible in the environment in which they are seen. Specific objectives are:

Preserve and enhance the city's own unique set of visual aesthetics which will attract potential residents, commercial customers, and tourists to the area because of the community's overall appearance;

Enhance the visibility and effectiveness of all signs through the elimination of clutter and redundancy;

Eliminate and lessen the confusion, unsightliness, or visual obscurity of adjacent properties that could be created; and

Recognize and appreciate the value of advertising and signage to a successful business climate.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-231 Applicability

All signs within the city limits of Euless shall be subject to the following regulations. The provisions apply to the location, size, use, number, and placement of signs and shall otherwise be considered supplementary to the city codes and ordinances pertaining to the erection, maintenance and operation of signs in the city. Any other codes and ordinances found elsewhere in the Unified Development Code (UDC) that are in direct conflict with these provisions are hereby repealed.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-232 Definitions and requirements

For the purposes of this article, the words below shall have the following definitions whether or not capitalized unless the context clearly requires another meaning, ascribed to them and the requirements and regulations set forth for each shall apply in the city.

(1) *A-frame sign*. A temporary sign used to identify a business name, telephone number, hours of operation, and/or the business' website address. An A-frame sign is made of two pieces of wood, metal or other similar material approved by the

building official connected at the top by hinges or similar devices(s) and may collapse when the connecting device(s) are overextended or the two pieces of wood, metal or other similar material are against one another. Also commonly referred as a "sandwich board sign".

a. Time. A sign permit is required. The sign permit number, in numerals not less than one inch in height shall be permanently affixed on the sign for the purpose of inspection. A sign permit shall not be issued to install or display an A-frame sign until a certificate of occupancy has been issued for the place of business that elects to display the sign. After the issuance of a sign permit, an A-frame sign may be displayed only during the business hours of the permit holder.

b. Place. A-frame signs are permitted within nonresidential areas or planned development zoning districts used to incorporate a lifestyle center concept. A-frame signs must be placed on a sidewalk or adjacent to a sidewalk adjacent to or fronting the primary structure. A-frame signs must provide an unobstructed pedestrian clearance of at least four feet in width. An A-frame sign shall not be placed in any manner to interfere with vehicular traffic or cause a hazard. An A-frame sign shall not be placed in any median. An A-frame sign shall not be placed within a utility or right-of-way easement.

c. Manner. The maximum area of an A-frame sign is 12 square feet. The maximum height of an A-frame sign shall be four feet. The maximum width of an A-frame sign is three feet. An A-frame sign shall not be closer than 20 feet to another A-frame sign. A maximum of one A-frame sign may be placed per business or tenant on the property where the A-frame sign is located.

(2) *Abandoned sign*. A sign that had a permit, but the permit has been expired for 30 or more consecutive days and/or does not identify or advertise a bona fide business, lessor, service, owner, product, event, or activity, or pertains to a time, event, or purpose which no longer applies. Abandoned signs are prohibited in the city.

(3) *Apartment sign*. A temporary stake sign made of wood, metal, or other similar material used to convey information that relates to the operations of an apartment community or complex. Apartment signs are prohibited within the city.

(4) *Athletic registration sign*. A temporary stake sign made of wood, metal, or other similar material approved by the building official used to convey sport-related city based team registrations (organizations that play their games within the city) that publicizes dates, times, or locations of registrations. Athletic registration signs excludes information pertaining to dates, times, and/or locations of scheduled games or award ceremonies.

a. Time. No sign permit required, but prior permission of the property owners is required.

1. With prior written permission of the director of parks and recreation, or their designee. Athletic registration signs may be erected up to seven days prior to the registration and removed no more than 48 hours after

the registration.

2. With prior permission of a home owners association (HOA), athletic registration signs may be erected up to seven days prior to the registration and removed no more than 48 hours after the registration.

3. With prior permission from a public or private school, athletic registration signs may be erected up to seven days prior to the registration and removed no more than 48 hours after the registration.

b. Place. Athletic registration signs shall not be located within any median, any right-of-way or easement, or on any other public property, except as allowed herein at public parks and public schools.

1. At city-owned parks, athletic registration signs may be located at the city park exits or other city park area approved by the director of parks and recreation or their designee.

2. At HOA maintained parks or open space areas, athletic registration signs shall be located on private HOA maintained property with written approval by the HOA board or their designee.

3. At public or private school property, athletic registration signs shall be located at a school exit or other area on school property approved by the school authority.

c. Manner. The maximum area of an athletic registration sign shall not exceed six square feet. The maximum height of an athletic registration sign shall not exceed four feet.

(5) *Audible sign*. Any sign that emits music, talking, words, or other sound amplification with the exception of a drive-thru or drive-in menu sign. Audible signs are prohibited in the city.

(6) *Awning*. A retractable or nonretractable projection, shelter, or structure of rigid or non-rigid canvas, metal, wood, or other similar material approved by the building official that extends above a window, door, patio, or deck as protection from the weather, used as a decorative embellishment or used for identity, which may be illuminated. An awning requires the issuance of a building permit prior to installation, unless approved with the initial building permit.

(7) *Awning sign*. A permanent sign that is directly applied, attached, or painted onto an awning that covers a pedestrian walkway, intended for protection from the weather or as a decorative embellishment, projecting from a wall or roof of a structure over a window, walk, door, or the like. An awing sign is used to advertise the name of the business, hours of operation, business telephone number, business address, and/or website address.

a. Time. A sign permit is required. A sign permit shall not be issued to erect or

place an awning sign on to an awning at a property until a site plan is approved by the city council for development of the property and after the issuance of building permit or certificate of occupancy.

b. Place. In no case shall the supporting structure of an awning sign extend into or over the right-of-way, unless by exception within a planned development zoning district specifically utilizing a lifestyle center concept, and shall not extend closer than four feet from back of curb. No building shall have both a wall sign and an awning sign on the same building facade.

c. Manner. The maximum height of an awning sign shall not exceed four feet. The width of an awning sign shall not exceed 75 percent in length of any side of an awning. An awning sign shall only be permitted in conjunction with a nonresidential use, or in a nonresidential zoning district. An awning sign shall be secure and may not swing, sway, or move in any manner. An awning sign shall not contain any moving devices.

(8) Awning sign attachments. Awning sign attachments that cover a pedestrian walkway are accessory, supplemental extensions that are attached above or below an awning commonly used in conjunction with a wall sign. Awning sign attachments provide the name of the business.

a. Time. A sign permit is required. Structural drawings(s), as required by the building official, sealed by a licensed engineer must be submitted with the permit application.

b. Place. Awning sign attachments shall only suspend from or extend above the edge of a pedestrian awning. Awning sign attachments installed for pedestrian display located and attached on the underside of a pedestrian awning shall be centered.

c. Manner. Awning sign attachments shall have a maximum height of 12 inches. Suspended or extended awning sign attachments shall not alternate up-and-down at a business' storefront. Suspended awning sign attachments suspended over a pedestrian awning shall maintain a nine-foot clearance from pedestrian grade measured from the lowest hanging portion of the attachment. Awning sign attachments shall not swing, sway, or move in any manner. The structural-engineering of awning sign attachment must be approved by the city before a sign permit can be granted. Awning sign attachments shall not be used in conjunction with an awning sign. Only one type of awning sign attachment shall be used per storefront.

(9) *Balloons and other floating device(s)*. A visible airtight or air-flow through apparatus commonly made of latex, mylar or other similar material that extends by a cord, rope, string, wire or other similar material. No person shall erect, maintain, or allow the installation of any floating device(s) anchored to the ground, any vehicle, structure or any other fixed object for the purpose of advertising or attracting attention to a business, commodity, service, sale, or product, except as otherwise permitted in this article. Balloons and all other floating device(s) are prohibited in the

city.

(10) *Banner*. A temporary sign having characters, letters, or illustrations applied to plastic, cloth canvas, or other light fabric or similar material, with the only purpose of such non-rigid material being for background. A banner advertises the business' name, opening dates, telephone number, hours of operation, and/or types of products offered or sold. A banner may be considered as part of a special event sign permit. A banner does not include a municipal banner (subsection (54)).

a. Time. A sign permit is required for each display period. The sign permit placard must be displayed in a conspicuous place visible from the street for the purpose of walk-up inspection. A sign permit shall not be issued to display a banner at a property until a site plan is approved by the city council for development of the property and a building permit is issued. One banner sign may be placed on a building for three 14-day periods per calendar year. The periods may be combined. Each suite within a retail development shall be considered a building and, therefore shall be allowed to erect a banner accordingly. New businesses shall be permitted to place a banner on their building prior to the issuance of a certificate of occupancy with the issuance of a sign permit from the building official. A new business shall be permitted to place one banner on their building storefront up to six weeks after the date of a certificate of occupancy with the issuance of a sign permit. Banner(s) displayed before and immediately following the date of the certificate of occupancy shall not count against the allowances for the three 14-day periods within a calendar year. Banners permitted as part of a special sign permit shall count against the total number of allowed banners per year for that location. Exemption: Religious organizations that temporarily operate in a school or other nonreligious facility may erect a banner no earlier than two hours before worship and remove no later than two hours after worship without the issuance of a sign permit.

b. Place. A banner shall be securely attached to the front, side, or rear facade of a building. A banner shall not face a residential neighborhood, unless separated by a major thoroughfare. However, banners are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district. With permission from the director of parks and recreation, or their designee, banners may be erected during social or athletic events at a public park or other city-owned property attached to pavilions, fences, vehicles, stakes, rails, or poles up to two hours prior to the start of the event and shall be removed no later than one hour after the conclusion of the event.

c. Manner. A banner shall not exceed 48 square feet in area, except that at an individual business with a floor area of 50,000 square feet or greater, a banner shall not exceed 100 square feet in area. In the case where a individual business or entity has an existing pole/pylon sign, a shroud banner sign or sign wrap which covers the existing pole/pylon sign or a portion of the pole/pylon sign may be permitted as long as the shroud banner sign or sign wrap does not exceed the square footage of the existing pole/pylon sign. A banner shall be placed a minimum of nine feet above grade at any pedestrian traveled way.

Where a building wall is nine feet in height or less, is adjacent to an approved parking surface, and is not a designated pedestrian walkway, one banner shall be placed a minimum of five feet above the grade above the parking surface.

(11) *Billboard*. A sign erected in the outdoor environment for the purpose of the display of commercial or noncommercial messages not pertinent to the use of products sold on, or the sale or lease of, the property on which it is displayed. Billboards include any of its support, frame or other appurtenances. Billboards shall be permissible as a permanent sign provided all of the following requirements have been met.

a. Time. A sign permit is required. Structural drawings(s), as required by the building official, sealed by a licensed engineer must be submitted with the permit application. Sign permits allowing for the use of billboards must be renewed on an annual basis.

b. Place. A billboard may be erected on subject property which is zoned limited industrial (L1), light industrial (I-1) or heavy industrial (I-2) as per the current zoning ordinance of the city.

1. Billboard signs shall be set back from all property lines a minimum of 25 feet. Sign setback shall be measured from the edge of the sign and not the support.

2. Billboards must be located no closer than 250 feet measured parallel with the street right-of-way, from any other billboard whether the existing or a permit for such sign has been authorized.

3. The sign is located a minimum of 250 feet from any property used for residential purposes or zoned for residential use.

4. The property on which the billboard is located is not located within 3,000 feet of S.H. 183, S.H. 121, or S.H. 360.

c. Manner. Maximum area of the billboard shall not exceed 1,000 square feet per sign face. The maximum height of a billboard shall not exceed 35 feet in height.

(12) *Building official*. The building official or their designee or other city-authorized agent appointed by the city manager.

(13) *Building height*. For the purposes specific to this article and to be used for the calculation of certain signs within, building height shall be defined as the distance measured from the average grade to the building plate height at the top of its highest story per elevation. Additional height generated by roof line or by parapet shall not be calculated in the measurement of height. This definition shall not be used in conflict with other measurements of building height for the purposes of zoning standards.

(14) *Canopy sign*. A sign that is applied, attached, painted or affixed on a canopy or other

roof-like cover over gasoline fuel pumps, vacuum area at car detail facilities, or other areas where services are provided to a patron in a vehicle or as an area intended for parking of vehicles to provide protection from the weather or as a decorative embellishment. Canopies may be attached or detached from the primary structure. A canopy sign may be used in addition to a wall sign.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, install or place a canopy sign on a property until the site plan has been approved by the city council for development of the property and after the issuance of a building permit for a building on the property.

b. Place. Canopy signs may only be erected on the canopy band that faces a public right-of-way.

c. Manner. Canopy signs may not exceed 15 square feet in size. Canopy signs must be attached directly to or painted on the exterior face of the canopy band and shall no project more than 18 inches from the canopy band. Only the canopy band may be illuminated, not the entire canopy. Canopy signs attached to a canopy shall not extend above or below the canopy band.

(15) *Changeable copy*. The changing of advertising copy or message on a painted or printed sign, or the changing of advertising copy or message on a changeable reader board such as a theater marquee, electronic message board or similar signs specifically design for use of replaceable copy. The installation and construction of such signs shall be governed by the appropriate sign type; however the changeable copy message does not require a sign permit.

(16) *City manager*. The city manager or their designee or other city-authorized agent appointed by the city manager.

(17) *Cloud buster balloon and air devices*. Any visible airtight or air-flow through, inflatable apparatus that exceeds one square foot in total area made of latex, mylar, or other similar material that extends higher than ten feet into the sky by a cord, rope, string, wire, or other similar material. A cloud buster balloon or air device is commonly used to attract passersby/patrons to a location having a promotion, sale or other function. Cloud buster balloons, blimps, and other air devices are prohibited in the city of Euless.

(18) *Commercial real estate sign (CRES)*. An on-site, temporary sign made of wood, metal or similar material approved by the building official that pertains to the sale or lease of the property where the sign is located. A V-shape sign is not a CRES. A CRES generally advertises the name of a building or property for sale or lease, property owner name, realtor information, telephone number, zoning information, and other information relating to the sale or lease of nonresidential property.

a. Time. A sign permit is required. The sign permit number, date installed, and sign contractor's name shall be placed on the CRES in characters no less than one inch in height in a conspicuous place for the purpose of walk-up inspection. A CRES requires removal within ten days after the sale or lease of

a property or business.

b. Place. A CRES shall be located no closer than 15 feet to any property line. A maximum of one CRES per property shall be placed on a lot. For a property with more than 500 feet of single street frontage more than once CRES is allowed provide that each CRES is spaced a minimum of 200 feet from other signs.

c. Manner. A CRES shall not exceed 32 square feet in area. A CRES shall not exceed eight feet in height. The maximum width of a CRES shall not exceed four feet.

(19) *Developed*. A developed property is a nonresidential property for which a certificate of occupancy has been issued by the building official to occupy a building on the property or a residential property for which a certificate of final acceptance has been issued by the city.

(20) *Dilapidated*. Any surface element, background, or support of any sign that has finished materials that are missing, broken, bent, cracked, decayed, dented, harmful, hazardous, illegible, leaning, splintered, ripped, torn, twisted, or unsightly.

(21) *Electronic variable message signs*. Electronic variable message signs are any sign that utilizes changeable copy messages through internal illumination through light emitting diodes (LEDs) or other light sources. Electronic variable messages signs are intended to be static and are subject to the same size and location restrictions as other signs regulated by this article. The electronic variable message portion of the sign shall not exceed 40 percent of the total sign face permitted, nor shall it be the only sign face. In addition, an electronic variable message sign is subject to the following restrictions:

a. Any change in information on the electronic variable message sign shall not produce the illusion of moving objects, scrolling, blinking, flashing, expanding or contracting shapes, rotation or any similar visual effect of animation or movement.

b. Any changeable copy on the electronic variable message sign shall not change more than every 15 seconds. Any changes shall occur with an instant on/off cycle.

c. Electronic variable message signs are permitted to contain time and temperature displays. The time and temperature shall remain static for not less than three seconds.

(22) *Erect or install*. To build, construct, attach, hang, place, suspend, affix, paint, display, apply, assemble or place in any manner, including but not limited to on the exterior of a building or structure.

(23) *Exempt*. A sign permit is not a requirement; however, compliance with all other city ordinances and the Unified Development Code, as it currently exists or may be

amended, is required.

(24) *Exempt sign*. Any sign either specifically exempted within this article or any sign required to be displayed by federal, state or local laws. Exempt signs shall not be included in any numerical, coverage, or size calculation.

(25) *Feather flag*. A wind device that contains a harpoon-style pole or staff driven into the ground for support. Feather flags are prohibited in the city unless the feather flag is located on a property with single-family or duplex zoning for which a certificate of occupancy has been issued and the feather flag is used for the sole purpose of expressing patriotism or for a celebration or holiday decoration. In this case, a feather flag may be installed a maximum of 30 days.

(26) *Flag/flagpole*. A piece of fabric or other flexible material attached to a ground-supported staff on one end used as a symbol of a nation, state, political subdivision, or organization.

a. Time. No sign permit required. A flag shall not be placed on a property until a site plan is approved by the city council for development of the property.

b. Place. A flag and its ground-supported staff shall be located on private property behind the property line. Flags may be placed at parks during social and athletic events.

c. Manner. At a property that contains a building with less than four floors, the maximum height of a ground supported flagpole shall be 40 feet measured from the ground with the maximum area of the flag not to exceed 60 square feet in area. At a nonresidential property that contains a building with four floors or more above-ground, the maximum height of a flagpole shall be 60 feet measured from the ground with the maximum area of a flag not to exceed 96 square feet in area. A maximum of four flags or flagpoles may be located on a property. A flag not displayed on a ground-supported staff shall meet the permit and display requirements of a banner.

(27) *Garage sale sign*. An on-site temporary sign used to advertise a garage sale, yard sale, patio sale, or estate sale at an occupied residential property that has obtained a certificate of occupancy.

a. Time. No sign permit required. Garage sale signs shall be given to the property owner upon completion and processing of a garage sale permit. A garage sale sign shall not be erected for longer than three consecutive days.

b. Place. Garage sale signs shall be erected on private property not closer than ten feet from the edge of any street pavement. Garage sale signs shall not be placed on a vehicle, fence, pole, tree, median, or railing. Garage sale signs shall not be balloons, wind devices or other type of sign, except signs as issued by the city.

c. Manner. Garage sale signs shall be of the type and size as issued by the city

with the completion of a garage sale permit.

(28) *Gasoline price*. Gasoline price or credit card sign permanently affixed to pump islands not exceeding 12 square feet. No sign permit is required. Gasoline price signs associated with canopy signs (section 84-232 (14)), monument signs (section 84-232 (50)), and pole/pylon signs (section 84-232 (66)) shall be restricted to those specific sign-type regulations.

(29) *Government awareness sign*. A government awareness sign is a temporary stake sign, banner, or other apparatus including flags, used to convey health, safety and welfare information to the public regarding city, county, state, or federal government requirements and regulations such as water restrictions, burn bans, or other similar information.

a. Time. No sign permit required. No restrictions.

b. Place. No restrictions.

c. Manner. No restrictions.

(30) *Government community event sign*. A temporary stake sign, banner, or other apparatus used to convey information to the public regarding city-related activities and events (i.e.: Arbor Daze and the like).

a. Time. No sign permit required. A government community event sign may be erected up to 30 days prior to the event or activity, and shall be removed within two business days after the event or activity.

b. Place. Government community event signs shall only be placed at a city public park and/or other city government property that contains a public building; within a residential subdivision with written permission from the homeowner's association or its representative; at a private or public educational facility with permission; and at the event location.

c. Manner. A governmental community event sign shall not be placed in medians, easements, or within the right-of-way of any thoroughfare.

(31) *Graffiti*. Pictures, words or slogans, images, or other artwork painted, drawn, scratched or applied in any manner to exterior walls, fences, structures, vehicles, stone, statues, buildings, or other items in public view not authorized by the owner of such property or allowed as a mural. Graffiti includes the illegal or unauthorized defacing of a building, wall, or other edifice or object by painting, or otherwise marking it with words, pictures, or symbols, advertising, logos, relations with a group, indecent/vulgar images, or offensive language(s). Graffiti is prohibited in the city. This definition shall be used with section 14-163 amendments to the International Property Maintenance Code regarding graffiti.

(32) *Grand opening*. A commemoration that promotes the opening of a new business is a grand opening. A grand opening shall be within 180 days of the issuance of a

certificate of occupancy from the building official. Grand openings after 180 days after the issuance of a certificate of occupancy requires approval from the building official. A grand opening may only be located at the business that received a certificate of occupancy from the building official. A grand opening shall not exceed 14 consecutive days in length.

(33) *Grand opening balloon(s) and/or balloon arrangement*. A grand opening balloon is a visible airtight, inflatable apparatus with a maximum of one square foot in total areas in various shapes and/or designs made of latex, mylar, or other similar material approved by the building official. A grand opening balloon is customarily a hand-held device with a maximum ten-foot in length code, rope, string, wire or other similar material. Grand opening balloon arrangements are grand opening balloons tied, twisted, or connected in such a manner to design creative figures, shapes, crescents, and/or other displays.

a. Time. A sign permit is required. Grand opening balloon(s) and/or grand opening balloon arrangements shall only be displayed during a grand opening at a business. Grand opening balloon(s) and/or grand opening balloon arrangements shall be removed within two hours after the conclusion of the grand opening.

b. Place. Grand opening balloon(s) and/or grand opening balloon arrangements shall only be displayed within 20 feet of the business' public entrance that has obtained a permit for a grand opening. Grand opening balloon(s) and/or grand opening balloon arrangements shall not be placed or displayed in front of (or at) other businesses. Grand opening balloon(s) and/or grand opening balloon arrangements shall not be attached to parking signs, bicycle stands, benches, trees, fences, poles, railings, vehicles, existing signage, display items, other structures, or placed in required parking spaces. grand opening balloon(s) and/or grand opening balloon arrangements shall not block pedestrian or vehicular visibility or cause a safety hazard.

c. Manner. Grand opening balloon(s) and/or grand opening balloon arrangements may not exceed 20 feet in height. Grand opening balloon(s) and/or grand opening balloon arrangements must be secured to the ground.

(34) *HOA-neighborhood sign (HOA-NS)*. A temporary stake sign used to convey information regarding residential subdivision board meetings, announcements, or other subdivision-related events to residents within the subdivision.

a. Time. No sign permit required.

b. Place. A HOA-NS shall be located on private property within the subdivision. A HOA-NS shall not be located along any major thoroughfare or street artery outside of the subdivision screening wall or perimeter barrier.

c. Manner. The maximum area of a HOA-NS shall not exceed six square feet. The maximum height of a HOA-NS shall not exceed four feet.

(35) *Holiday decorations*. Signs or materials displayed in a temporary manner on or prior to traditional, civic, patriotic or religious holidays. No sign permit is required.

(36) *Home improvement sign*. An on-site temporary stake sign that advertises the name, phone number, website address, and/or type of construction being performed on the property, such as a roof, fence, pool, painting, landscaping, or other home improvement contractor.

a. Time. No sign permit required. A home improvement sign shall be removed within 15 days of being initially installed or when the home improvement work is completed, whichever occurs first.

b. Place. A home improvement sign shall be located only on the lot at which the home improvement is occurring. A home improvement sign shall be erected on private property no closer than ten feet from the edge of any street pavement or designated roadway.

c. Manner. A home improvement sign shall not exceed six square feet in area. A home improvement sign shall not exceed four feet in height. A maximum of one home improvement sign shall be erected on a lot.

(37) *Human sign*. A sign held by or attached to a human being who stands or walks on the ground on-site at a business location. A human sign includes a person dressed in costume, both for the purposes of advertising or otherwise drawing attention to an individual, business, commodity, service, activity, or product.

a. Time. No sign permit required. Human signs may be displayed 24 hours each and every continuing day.

b. Place. Human signs shall be located on private property where a sale, event, promotion, or the like is taking place. Human signs may not be off-location from where a promotion, sale, event, or the like takes place.

c. Manner. Human signs may not hold or carry wind devices, flags, or balloons. Human signs shall only be persons who stands or walks on the ground on private property. Podiums, risers, stilts, vehicles, roofs, or other structures or devices shall not support a human sign.

(38) *Illuminated sign*. A sign designed or made that consists of lights, LEDs, or other form of illumination that displays a message or picture that does not scroll, fade, blink, flash, travel, or any other means that does not provide constant illumination.

(39) *Impounded sign*. A sign that is legally removed by a city-authorized official, inspector, officer, other city employee(s) or city-authorized person(s) in accordance with the provisions of this article.

(40) *Inflatable device sign (IDS)*. A sign manufactured of plastic, cloth, canvas, or other flexible or light fabric, inflated with air, secured to the ground, does not float, and does not exceed 30 feet in height. An IDS may be considered as part of a special

event sign permit.

a. Time. A sign permit is required. The sign permit must be displayed in a conspicuous place visible from the street for the purpose of walk-up inspection. A sign permit shall not be issued until the city has issued a certificate of occupancy for the business that elects to display an IDS. One IDS may be erected on a lot for no more than three 14-day periods per calendar year. A business can only display one IDS at a time. In the case of multiple businesses or tenants located on a single lot, each business is allowed to erect an IDS on the lot for three, 14-day periods, provided that not more than one IDS is installed along any street frontage at the same time.

b. Place. An IDS shall not be located in required parking spaces, or driveways that provide access to parking spaces or fire lanes, nor shall any IDS or its securing devices encroach into a right-of-way. IDSs are only permitted within a nonresidential zoning district.

c. Manner. An IDS shall be secured directly to and not floating from the ground. An IDS shall not be placed on a roof, canopy, parking garage, or awning, or suspended or floating from any building or garage. The maximum height of an IDS shall not exceed 30 feet. One banner may be applied to an IDS. A banner applied to an IDS shall not count toward the allotted number of banners during a calendar year. The maximum area of a banner applied to an IDS shall not exceed 48 square feet. An IDS shall not be installed within 200 feet from another IDS measured in a straight line in any direction. Cloud buster balloons, blimps, wind devices or any similar type of apparatuses are not an IDS. Holiday decorations not specifically associated with a sign are not considered as an IDS.

(41) *Instructional/informational sign*. The sole purpose of an instructional/informational sign is to provide instruction, information, or direction to the general public that is essential to the health, safety, and public welfare of the community. An instruction/informational sign shall contain no other message, copy, announcement, or decoration other than the essential instruction, information or direction and shall not advertise or otherwise draw attention to an individual, business, commodity, service activity, or product. Such signs shall include, but are not limited to: a sign identifying a property address, street address, restrooms, public telephones, handicap parking spaces, reserved parking spaces, freeze warning, no trespassing, no dumping, no loitering, no soliciting, beware of warning, water resource information, neighborhood watch information, lock/take and hide information, construction entrance, and/or exit signage. Instructional/informational signs will include a sign of a warning, directive or instruction erected by a public utility company that operates under a franchise agreement with the city and/or signs required by federal, state or other local authorities.

a. Time. A sign permit is not required. No restrictions.

b. Place. No restrictions.

c. Manner. The maximum area of an instructional/informational sign is 16 square feet.

(42) *Internal sign*. Sign visible only from the property on which located or visible off the property only through a window or windows from which they are set back at least ten feet. No sign permit is required.

(43) Reserved.

(44) *Logo*. Any design, insignia or other marking of a company or product, which is used in advertising to identify the company, business or product.

(45) *Main street sign regulations*. All signs located within the boundaries of the Main Street District (all properties abutting North Main Street between the center lines of South Pipeline Road and Glade Road) or a sign located on an intersecting street, in which the sign is located within 300 feet of the nearest right-of-way line of Main Street shall conform to the sign regulations as prescribed by section 84-117 of the UDC.

(46) *Memorial sign*. Markers, plates, plaques, etc. when deemed an integral part of a structure building or landscape. No sign permit is required.

(47) *Menu board sign*. A sign erected in conjunction with a use that incorporates a drive-thru or drive-in and generally used to provide service and/or product options and pricing for patrons who remain in a vehicle.

a. Time. A sign permit is required. A sign permit shall not be issued to erect or place a menu board sign on a property until a site plan is approved by the city council for the development of the property and after issuance of a building permit for a building on the property.

b. Place. A menu board sign is permitted only in conjunction with a nonresidential use or in a nonresidential zoning district. The minimum front building setback is 25 feet from the property line.

c. Manner.

1. Drive-thru menu board sign. A menu board sign shall be supported from the grade to the bottom of the sign having or appearing to have a solid base. The design, materials, and finish of the menu board sign shall match those of the building(s) on the same lot. One menu board sign is permitted per drive-thru use on a lot. The maximum area of a menu board sign is 60 square feet. The maximum height of menu board sign is six feet.

2. Drive-thru pre-order sign. A drive-thru pre-order sign shall be supported from the grade to the bottom of the sign having or appearing to have a solid base. The design, materials, and finish of a drive-thru pre-order sign shall match those of the building(s) on the same lot. One drive-thru

pre-order sign is permitted at the entrance of the drive-thru lane on a lot. The maximum area of a drive-thru pre-order sign is 24 square feet in area. The maximum height of a drive-thru pre-order sign is six feet.

3. Drive-in menu board sign. A drive-in menu board sign shall be supported from the grade to the bottom of the sign having or appearing to have a solid base. If the drive-in stalls are covered by a canopy, the drive-in menu board signage may be attached directly to the canopy support columns. The design, materials, and finish of a drive-in menu boards sign shall match those of the building(s) on the same lot. One drive-in menu board sign is permitted per ordering station. The maximum area of a drive-in menu board sign is nine square feet in area. The maximum height of a drive-in menu board sign is six feet.

4. Noise level. A drive-thru or drive in menu board sign which engages a speaker or other form of audible communication between the vehicle and store shall conform to article IV, chapter 46, noise of this Code.

(48) Merchandise signs and/or displays. Any goods, wares, merchandise or other advertising object or structure suspended, applied, erected, installed from or on any building, or pole, structure, sidewalk, parkway, driveway, parking area, fuel pump island or its supports, bridge or overpass for the purpose of advertising such items or attracting patrons. Merchandise signs and/or displays are prohibited within the city, except as specifically allowed by any city ordinance or required by federal or state law.

(49) Mobile advertisement sign. An operable or inoperable vehicle with illuminated or non-illuminated panels, other devices, or appendages used to advertise, promote or draw attention to products, services, events, or other similar purpose. The primary purpose of a mobile advertisement sign is advertising.

a. Time. No requirement.

b. Place. A mobile advertisement sign is prohibited from being parked, driven, stationed, or moving in any manner on private property within the city for longer than 20 minutes per 24-hour day.

c. Manner. A mobile advertisement sign shall only be driven on public streets in the city.

(50) *Model home sign*. A sign used to identify a builder or contractor model house that is open to the public for inspection by customers and located within a residential zoning district. A model home sign provides a builder's name, logo, hours of operation, website information, and/or telephone number.

a. Time. A sign permit is required. A sign permit shall not be issued until a final plat has been approved by the planning and zoning commission for development of the subdivision. A sign permit for a model home sign will not be issued until after a building permit has been issued for construction of a

dwelling model home or temporary sales trailer.

b. Place. A model home sign is permitted on a lot that has been issued a building permit for construction of a residential dwelling or temporary sales trailer. One model home sign is allowed per residential lot. The minimum front setback of a model home sign shall be 15 feet from the property line. The minimum side or rear setback of a model home sign shall be ten feet from the property line.

c. Manner. The maximum area of a model home sign shall not exceed 48 square feet. A model home sign shall be supported from the grade to the bottom having a solid base with a one-foot masonry border or decorative embellishment border. All decorative embellishment borders and/or masonry borders will be included in the calculation of the total area of the model home sign. The maximum height of a model home sign shall not exceed five feet. The average finished grade of the lot shall not be altered to increase the height of the model home sign. Model home signs shall not contain neon.

(51) Monument sign. A sign supported from the grade to the bottom of the sign having or appearing to have a solid and opaque base and used to identify tenants or name of a business located within a development or on a separately platted lot within a planned development.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, install or place a monument sign on a property until a site plan and/or final plat has been approved by the planning and zoning commission and/or city council for development of the property and after the issuance of a building permit for a building on the property.

b. Place. Monument signs are permitted in nonresidential zoning districts or nonresidential areas and on a lot containing an apartment complex, daycare facility, school, community center, amenity center, marketing center, or religious facility. A monument sign is permitted on the same lot as a multi-tenant development sign (MTDS), but the total number of MTDS and monument signs located within a development shall generally not exceed the number of lots located within the development. The total number of signs shall not be permitted to exceed the total number of lots in the development when additional monument signs or MTDS are permitted on a property. The minimum front yard setback for a monument sign is fifteen feet from the property line. The minimum side and rear setback from the property line shall be equal to the height of the monument sign. Monument signs shall not be placed within any designated or dedicated public utility easements without the approval of an easement use agreement from the appropriate utility.

c. Manner.

1. The design, materials, and finish of a monument sign shall match those of the buildings on the same lot. A monument sign shall contain a minimum one foot masonry with mortar border around all sides. A monument sign constructed entirely of masonry materials, as defined in

section 84-181 of this code, as it currently exists or may be amended, shall satisfy the one-foot masonry border requirement. Back-lit monument signs shall be inset into the pedestal rather than attached or applied to the pedestal.

2. Monument signs constructed in conjunction with MTDS shall be consistent with the building elements and materials of the MTDS within the development. Architectural embellishments are also encouraged and may be considered through the review of a unified sign development plan.

3. A lot is allowed a maximum of one monument sign per street frontage.

4. The maximum area of a monument sign, including the one-foot masonry border, is 60 square feet.

5. The maximum height of a monument sign is eight feet.

6. Monument signs are permitted to contain electronic variable messages subject to the following conditions:

   i. Electronic variable message monument signs shall only be permitted along a major arterial or greater as designated in the city's thoroughfare plan, as it currently exists or may be amended.

   ii. Electronic variable message monument sign characters shall have a minimum height of ten inches and a maximum height of 16 inches.

   iii. Electronic variable message monument signs shall not be animated, flash, travel, blink, fade, or scroll.

   iv. Electronic variable message monument signs shall remain static for not less than 15 seconds.

   v. Electronic variable message monument signs are permitted to contain time and temperature displays. The time and temperature shall remain static for not less than three seconds.

   vi. Electronic variable message wall signs are also permitted, but only one variable message sign, either monument or wall, is permitted per lot.

(52) *Monument (internal) sign (MIS-2)*. A MIS-2 is a sign that is supported from the grade to the bottom of the sign having, or appearing to have, a solid base and generally used to provide direction to drive-thru lanes, buildings, and tenants within large multi-tenant retail, multifamily, or office developments. A MIS-2 is permissible subject to the following conditions:

a. Time. A sign permit is required. A sign permit shall not be issued to erect, install or place a MIS-2 on a property until a site plan and/or final plat has been approved by the planning and zoning commission and/or city council for development of the property and after the issuance of a building permit for a building on the property.

b. Place. A MIS-2 is permitted only in conjunction with a nonresidential use or in a nonresidential zoning district. Minimum front setback is 75 feet from the property line. The minimum rear and side yard setback shall be equal to the height of the sign.

c. Manner.

1. The design, materials, and finish of MIS-2s shall match those of the buildings on the same lot. MIS-2s constructed in conjunction with MTDS and/or monument signs shall be consistent with the building elements and materials of the MTDS and monument signs on the same lot and within the same development.

2. If a property averages more than two MIS-2s per acre, a unified sign development plan must be approved prior to placement of the MIS-2s.

3. The maximum area of a MIS-2 is 60 square feet.

4. The maximum height of a MIS-2 is eight feet.

(53) *Moving sign*. Any sign, sign appendages or apparatus designed or made to move freely in the wind or designed or made to move by an electrical or mechanical device. Moving signs, and/or any sign appendage that moves, are prohibited in the city.

(54) *Multi-tenant development sign (MTDS)*. A MTDS is a sign that is supported from the grade to the bottom of the sign having, or appearing to have, a solid base or a sign that is supported by poles or supports in or upon the ground independent of any building and is used to identify multiple tenants within a development. A MTDS is permissible on a nonresidential zoned property subject to the following conditions.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, install or place a MTDS on a development containing multiple parcels until a unified sign development plan has been approved. A unified sign development plan is not required for a MTDS on a single parcel development. A sign permit for a MTDS shall not be issued to erect, install or place a MTDS until a subdivision plat, preliminary site plan, and/or site plan for the property has been approved by the planning and zoning commission, and/or city council and after issuance of a building permit for a building within the development.

b. Place.

1. MTDS shall be located within a development that may contain multiple

tenants and/or multiple lots under a single development.

2. A MTDS is permitted on the same lot as a monument sign, but the total number of MTDS and monument signs located within a development shall generally not exceed the number of lots located within the development. The total number of signs shall not be permitted to exceed to the total number of lots in the development when additional MTDS are permitted on a property.

3. The minimum front setback for a MTDS is 15 feet from the property line.

4. No minimum side yard and rear yard setbacks are required for a MTDS, but a MTDS shall not be located closer than 75 feet to another MTDS or a monument sign.

c. Manner.

1. A MTDS shall be constructed of materials and a design consistent with the buildings located on the property.

2. The maximum area and height of a MTDS shall be based on the proximity of the development to the adjacent street classification.

	Maximum Area	**Maximum Height**
Local and collector streets	20 square feet per tenant up to 260 square feet inclusive of development identification	15 feet
Minor arterials	25 square feet per tenant up to 325 square feet inclusive of development identification	20 feet
Major arterials	30 square feet per tenant up to 325 square feet inclusive of the development identification	30 feet
Highways	40 square feet per tenant up to 600 square feet inclusive of development identification	40 feet

3. Architectural embellishments for MTDS are encouraged. Exceptions in maximum height and area may be considered through the review of the unified sign development plan.

4. One MTDS is permitted per street frontage of the development. One additional MTDS is permitted along a street for each additional 750 linear feet, or portion thereof, of street frontage that exceeds 750 linear feet of street frontage.

5. Variable messages are not permitted within MTDS.

(55) *Municipal banner*. A temporary sign having characters, letters, or illustrations applied to plastic, cloth, canvas, or other light fabric or similar material, with the only purpose of such non-rigid material being for background used by the city, either acting alone or in cooperation with another person or entity, to promote the city, aide in economic development or economic activity in the city, promote citizenry and good will, promote awareness of happenings in the city, promote municipal-related places, activities, events, or promote municipal-related information or an event or similar happening determined by the city to directly relate to the city's objectives in speaking on its own property. A municipal banner includes ornamentations and seasonal decorations.

a. Time. Written permission from the city manager or their designee is required. No time restriction.

b. Place. A municipal banner may be erected on any city-owned property, including but not limited to pavilions, fences, walls, vehicles, poles and light poles, and/or any other structure or apparatus approved by the city manager or their designee.

c. Manner. Municipal banners shall not be faded, tattered or torn.

(56) *Mural*. Pictures or artwork painted, drawn or applied on the exterior walls that does not depict or contain advertising, logos, or images of a product or service available on-site or off-location. Murals are not used to advertise products or services offered or sold off-location or on-site.

a. Time. A sign permit is required. A sign permit shall not be issued to paint, draw, apply or place a mural on a property until a site plan and/or final plat is approved by the planning and zoning commission and/or city council for development of the property and after issuance of a building permit for a building on the property.

b. Place. A mural shall be located above grade and below a roof and only be located within a nonresidential zoned district. Murals shall not be applied to a roof or other similar cover of a building or structure.

c. Manner. The maximum area of a mural shall not exceed the length or height of the exterior wall on which it is painted, drawn or applied. A mural shall not face a residential neighborhood, unless separated by a major thoroughfare. Murals are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district.

(57) *Name sign*. Sign having an area of not more than two square feet, the message of which is limited to conveying the address and/or name of the premises, and/or owner, and/or occupant of the premises. No sign permit is required.

(58) *Neglected sign*. A sign that has any missing panels, burned out lights, missing letters or characters, has rust, has loose parts, has damage, faded from its original color, supports or framework with missing sign or parts, or is not maintained. Neglected signs are prohibited in the city.

(59) *Neon tubing*. A discharge tube containing neon that ionizes and glows with various colors when electric current is sent through it.

(60) *Nonconforming sign*. Any sign and its supporting structure that does not conform to all or any portion of this article and was in existence and lawfully erected prior to the effective date of this article; and was in existence and lawfully located and used in accordance with the provision of any prior ordinances applicable thereto, or which was considered legally nonconforming there under, and has since been in continuous or regular use; or was used on the premises at the time it was annexed into the city and has since been in regular and continuous use.

(61) *Notice*. Notice required by this article shall be sufficient if it is effected by personal delivery, registered or certified mail, return receipt requested, by the United States Postal Service and/or posting at premises.

(62) Off-location or Off-premises sign. A sign that advertises, promotes, or pertains to a business, person, organization, activity, event, place, service, product, etc. at a location other than where the business, person, organization, activity, event, place, service, product, etc. is located. Off-location and off-premises signs are prohibited in the city.

(63) *On-site*. The property or location on which a business, person, organization, activity, event, place, service, product, etc. is located.

(64) *Open house residential sign*. A temporary stake sign used to advertise the name of a realtor or homeowner, phone number, date, open house address, and/or time of a residential open house.

a. Time. No sign permit required. OHRS shall be erected no earlier than 9:00 a.m. Saturday before the open house and shall be removed no later than 6:00 p.m. Sunday of the open house during the same weekend. OHRS shall not be erected during week days.

b. Place. OHRS shall be located only on private residential property with the consent of the property owner and the subject property having the open house.

c. Manner. The maximum area of an OHRS sign shall not exceed six square feet. The maximum height of an OHRS shall not exceed four feet. An OHRS shall not contain balloons, streamers, flags, pennants, or other wind devices. An

OHRS shall not be placed on a vehicle, fence, pole, tree, or railing.

(65) *Pennant*. Any lightweight plastic, fabric or other material, whether or not it contains a message of any kind, suspended from a rope, wire, cord, string or other similar material designed to move in the wind whether existing in a series or individually. Pennants are generally prohibited in the city unless permitted through a grand opening or special event sign permit.

(66) *Person*. Any person, firm, partnership, corporation, company, limited liability company, organization, business or entity of any kind.

(67) *Pole/pylon sign*. A sign erected on a vertical framework consisting of one or more uprights supported by the ground independent of support from any building.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, install or place a pole/pylon sign on a property until a site plan has been approved by the city council for development of the property and after the issuance of a building permit for a building on the property.

b. Place. Pole/pylon signs are permitted in nonresidential zoning districts or nonresidential areas and on a lot containing a daycare facility, school, community center, amenity center, marketing center, or religious facility. The minimum front yard setback for a pole/pylon sign is 15 feet from the property line. The minimum side and rear setback from the property line shall be equal to ten percent of the lot width. Pole/pylon signs shall not be placed within any designated or dedicated public utility easements without the approval of an easement use agreement from the appropriate utility.

c. Manner. The maximum area and height of a pole/pylon sign shall be based on the proximity of the development to the adjacent street classification.

	Maximum Area	**Maximum Height**	**Maximum Number**
Local and collector streets	50 square feet	15 feet	One per 200 feet of street frontage or portion of
Minor arterials	100 square feet	20 feet	
Major arterials	150 square feet	30 feet	
Highways or freeways	250 square feet	50 feet	
Hotels, retail fuel sales and restaurants within 300 feet of a highway	300 square feet	60 feet	One

(68) *Political sign*. A sign that relates to the election of a person to a public office, relates to a political party, relates to a matter to be voted upon at an election called by a

public body, or contains primarily a political message.

a. Time. No sign permit required. Signs shall be removed within seven calendar days after the completion of the election. If a sign is permitted to be placed at a polling site pursuant to Section 61.003 or Section 85.036 of the Texas Election Code, as amended, it must be removed from the polling site within 24 hours after the close of the polls on Election Day and within 24 hours after the close of the early voting period.

b. Place. Political signs shall be located only on private property with the consent of the property owner. A political sign shall not be erected: i) closer than ten feet from the edge of the street pavement; ii) located on any public property; or iii) within a public easement or right-of-way. Notwithstanding the regulations in this subsection and pursuant to Section 61.003 or Section 85.036 of the Texas Election Code, as amended, the posting, use, or distribution of political signs is permitted only in designated locations on the city's property that are approved by the city council and only during the voting period or the early voting period. City staff shall provide a description of the approved locations for permitted electioneering pursuant to this subsection and Section 61.003 or Section 85.036 of the Texas Election Code, as amended.

c. Manner. Political signs shall not exceed eight feet in height measured from the ground to the highest point of the sign. Political signs shall not exceed 36 square feet in area. Political signs shall not be illuminated. Political signs shall not contain any moving elements or parts. Political signs shall not be dilapidated or cause a hazard.

If a sign is permitted to be placed at a polling site pursuant to Section 61.003 or Section 85.036 of the Texas Election Code, as amended, the sign shall not be larger than six square feet (two feet x three feet) and must be attached to a stake driven into the ground well clear of tree roots, irrigation lines and any other underground vegetation or structures that could be damaged by such a stake. Additionally, each supporting stake(s) must not exceed a nine gauge diameter (American Wire Gauge standard (AWG)).

(69) *Portable signs*. Any sign designed or intended to be relocated from time-to-time, whether or not it is permanently attached to a building or structure, or is located on the ground. Portable signs include signs on wheels or on portable or mobile structures, such as, among other things, trailers, skids, banners, tents or other portable structures, A-frame signs, T-shaped signs, airborne devices, or other devices used for temporary display or advertising. Portable signs are prohibited in the city except as specifically allowed by this article of the UDC.

(70) *Prohibited light/lights*. Lights are any form of light sources or lumens, whether by electromagnetic radiation, flame, reflection, or any other form of lumens that acts upon the retina of the eye and optic nerve that makes sight possible. Prohibited lights are lights that blink, strobe, flash, fade, scroll, or anything other than stationary or static that attracts the attention of the general public, or causes light pollution or light trespass. Prohibited lights placed in any manner where the light is visible from

the exterior of a business or other nonresidential use facility are prohibited in the city. Exception: Federal, state and municipal authorized emergency devices or apparatuses, emergency vehicles, utility repair vehicles, fire and building code light devices for emergency and/or security purposes, or other required lighting for public safety purposes are not prohibited and must comply with all applicable ordinances or regulations.

(71) *Prohibited signs*. It shall be in violation of this article for any person, company or agent to erect, place display or locate any sign having any of the following characteristics. Signs deemed unsafe to the general public either due to location the sign is erected or the condition of the sign may be removed immediately by the building official or their designee.

a. Unreferenced or no permit issued. Any sign not referenced in or governed by this article or any sign erected or installed without the issuance of a permit either prior to or after the adoption of this article (if a permit is required).

b. Odor or visible matter emitting. No sign shall be permitted that emits odor or visible matter.

c. Blocking of public access. No sign shall block or obstruct public access, fire escapes, traffic visibility, or public utilities. No sign shall be erected or installed in or over a public right-of-way or access easement, unless permitted within this article.

d. Imitation governmental signs. No signs shall imitate governmental signs including traffic-control signs and/or devices.

e. Obscenities. No sign shall contain obscene, indecent, or immoral words, pictures or other matter.

f. Obstruction of traffic signal visibility. No sign shall be located in the direct line of vision of any traffic-control signal from any point in a moving traffic lane within 50 feet of such signal.

g. Painting on streets. No painting, marking or attachment of a sign to the street, sidewalk, and building other than house numbers or occupant’s name or as provided within this article.

h. Proximity to power lines. No portion of any sign shall be located closer than ten feet to any overhead power or service line.

i. Signs on utility poles. No sign shall be placed on or attached to other signs, utility poles, fire hydrants, trees, flag poles, street lamps or other means of support of an outdoor advertising display.

j. Decorative flags. Flags other than national, state, municipal or corporate flags as permitted by this article shall not be permitted in commercial or multifamily districts.

(72) *Project/development sign (PDS)*. A temporary sign used to advertise or display contact information of property owners, opening dates, architects, contractors, engineers, landscape architects, and/or financiers, who are engaged with the design, construction, improvement or financing of a residential subdivision with homes under construction within the subdivision to which it pertains or within a commercial project to which it pertains. PDS is generally constructed of wood, metal or other similar materials approved by the building official. A PDS may include zoning information and advertise residential builders selling homes within a subdivision. In no case shall a PDS contain information that pertains to off-premise uses.

a. Time. A sign permit is required. The sign permit number, date installed, and sign contractor's name must be placed on the sign in no less than one inch in height in a conspicuous place on the sign. PDS signs must be removed when 95 percent of the buildings/homes in the commercial project/subdivision have been issued a certificate of occupancy.

b. Place. The PDS shall be installed no closer than 15 feet to any property line. The minimum distance between a PDS and another PDS is 200 feet.

c. Manner. A PDS installed on a lot where a contractor requests a final inspection must be removed prior to the final inspection and issuance of a certificate of occupancy. The maximum area of a PDS is 96 square feet. The maximum height of a PDS is 16 feet. A maximum of one PDS is allowed along a major street frontage per subdivision. When a subdivision has more than one major thoroughfare, one PDS may be placed on each major thoroughfare.

(73) *Projecting sign*. A sign attached and projecting out from a building face or wall, generally at a right angle to the building.

a. Time. A sign permit is required. A sign permit shall not be issued to erect or install a projecting sign at a property until a building permit is issued for the building where projecting sign is to be attached.

b. Place. A projecting sign is permitted only in conjunction with a nonresidential use or in a nonresidential district provided no portion of the sign extends over the required building line more than 25 percent of the minimum building setback requirement for that zoning district. When a projecting sign is constructed over a pedestrian sidewalk, a minimum of nine feet of clearance shall be provided between the grade of the sidewalk and the lowest portion of a projecting sign. No projection sign shall extend above the top plate line of the associated building.

c. Manner. The maximum area of a projecting sign is 50 square feet per sign face. No pole or monument sign shall also be located on the property.

(74) *Property*. An area of real estate designated as a parcel or lot on a final plat approved by the city and filed with the county clerk's office, or an unplatted tract of land as

shown on an abstract.

(75) *Public nuisance*. Any sign or similar device that causes annoyance either to a limited number of persons or to the general public or because of its attraction causes a hazard or dangerous condition.

(76) *Public view*. Visible from any public right-of-way, city right-of-way, or access easement.

(77) *Residential real estate sign (RRES)*. An on-site, temporary stake sign used to advertise a home or residential property for sale or lease. A RRES is used to advertise the name of the owner or realtor, telephone number, property information, and/or website address.

a. Time. No sign permit required. A RRES may be erected 24 hours each and every day.

b. Place. A RRES shall be erected only on the lot on which the home or property is for sale or lease. A RRES shall be erected no closer than ten feet from the street pavement.

c. Manner. A RRES shall not exceed six square feet in area. The maximum height of a RRES shall not exceed four feet. A maximum of one RRES shall be erected on a lot.

(78) *Revolving sign*. Any sign that turns, spins, or partially revolves or completely revolves 360 degrees on an axis. Revolving signs are prohibited in the city.

(79) *Roadway type*. Roadway type shall be defined as per the latest adopted thoroughfare plan of the city and are specifically listed here. Thoroughfares are divided up into the following:

a. *Highways or freeways*. Highways and freeways shall include those roadways which are classified as federally aided primary highways. These are more specifically described as S.H. 183, S.H. 121 and S.H. 360.

b. *Major arterials*. Major arterials shall include those roadways whose primary function is to carry multi-jurisdictional traffic and, for the purpose of this article, are hereby specifically limited to S.H. 10, FM 157, and Mid-Cities Boulevard.

c. *Minor arterials*. Minor arterials shall include Glade Road, Harwood Road, West Pipeline, Raider Drive, Westpark Way, and Euless Main Street.

d. *Local and collector roads*. Local and collector roadways shall be considered all other roads not specifically named herein.

(80) *Roof sign*. A sign mounted on and supported by the roof portion of a building or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building or a sign that is painted directly to or applied

on the roof or top of a building or structure. A sign that is mounted on mansard roofs, or architectural projections, such as canopies or the facade (wall) of a building or structure shall not be considered to be a roof sign.

a. Time. A sign permit is required. A sign permit shall not be issued to erect or place a roof sign on a property until a sign plan and/or final plat is approved by the planning and zoning commission and/or city council for development of the property, and after the issuance of a building permit at the property.

b. Place. Roof signs may be erected on nonresidential buildings in commercial or industrial zoning districts. The top of a roof sign shall not extend higher than the roof peak. A roof sign may be installed on a parapet wall; provided, the parapet wall extends around the entire perimeter of the building at the same elevation. A roof sign may be erected on a secondary canopy or a secondary roof over an entry to a building.

c. Manner. The maximum sign area for roof signs shall be limited to 15 percent of the exterior wall elevation over which the roof sign is oriented.

(81) *Sandwich board sign*. See “A-frame sign”, above.

(82) *School sign*. An on-site temporary stake sign used to convey school registrations, enrollments, open houses, award ceremonies, PTA meetings, or other school-related events or functions for a public or private educational facility to where the information pertains. A school sign excludes information pertaining to dates, times, and/or locations of scheduled athletic games.

a. Time. No sign permit required. A school sign may be erected up to seven days prior to the event and shall be removed no more than 48 hours after the conclusion of the meeting or event.

b. Place. With permission of the owner, a school sign shall be placed at a private or public school, and/or at an improved property that has received a certificate of occupancy. A school sign shall be erected on private property not closer than ten feet from the edge of any street pavement.

c. Manner. The maximum area of a school sign shall not exceed six square feet. The maximum height of a school sign shall not exceed four feet. A school sign shall not contain any balloons, streamers, pennants, flags, or wind devices.

(83) *Scoreboard*. A scoreboard is a structurally-engineered sign erected at an athletic field or stadium and which is generally used to maintain the score or time expired in an event at the field or stadium. This definition includes signs mounted or applied to the outfield wall within a baseball field.

a. Time. No sign permit required. No restrictions.

b. Place. Scoreboards shall be erected within or adjacent to an athletic field or stadium.

c. Manner. No restrictions.

(84) *Searchlight or skylight*. Any apparatus capable of projecting a beam or beams of light.

a. Time. A sign permit is required. The sign permit must be displayed in a conspicuous place visible from the street for the purpose of walk-up inspection. A sign permit shall not be issued until the city has issued a certificate of occupancy for the business that elects to display a searchlight or skylight. One searchlight or skylight may be erected on a lot for no more than three individual periods per calendar year. A single permit for a searchlight or skylight may be issued for only one 24-hour period at a time. A business can only display one searchlight at a time.

b. Place. A searchlight or skylight shall not be located in required parking spaces, or driveways that provide access to parking spaces or fire lanes, nor shall any searchlight or skylight or its securing devices encroach into a right-of-way. Searchlights and skylights are only permitted within a nonresidential zoning district.

c. Manner. Searchlights (skylights) shall not be located within 200 feet of a residence and shall not shine into the eyes of occupants in any vehicle or into the any residential window or where the illumination interferes with the readability of any traffic signal or device.

(85) *Sexually oriented business (SOB) signs*. Signs utilized to advertise SOBs within the city are governed under chapter 18 of this Code regarding the regulation and licensing of sexually oriented businesses.

(86) *Sign*. Any form of publicity or advertising which directs attention to an individual, business, commodity, service, activity, event, or product by means of words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, trade names or trademarks, or other pictorial matter designed to convey such information and displayed by means of print, bills, posters, panels, or other devices erected on an open framework, or attached or otherwise applied to stakes, posts, poles, trees, buildings, or structures or supports. This definition shall also include any device, fixture, placard, or structure that uses any color, form, graphic, illumination, symbol, or communicate information of any kind to the public.

(87) *Skylight*. See searchlight (subsection (84)), above.

(88) *Special event sign permit*. A permit issued for a temporary sign installation approved by the building official or their designee, which specifically allows, banners, pennants, balloons, grand opening balloons, advertising matter and stake signs which may be displayed to alert the public of a grand opening, special sales, or similar events. All signage shall be made of materials that are approved by the building official.

a. Time. A sign permit is required. Special event signage shall be permitted for a duration of no more than seven consecutive days per permit. No more than four special event permits shall be issued for any one business during any calendar year. Special event permits cannot be issued in a consecutive manner. A minimum 30-day interval must pass from the expiration of one special event sign permit to the issuance of another.

b. Place. Special event signage shall be confined to the on-site location that has obtained the permit. Special event signage shall be located in such a manner as to not interfere with the movement of sight visibility of pedestrian or vehicle traffic.

c. Manner. All manner of special event signage requested within the permit shall be in conformance with the dimensional and location restrictions hereby defined by this article.

d. Permit. Applications for special event sign permits shall consist of an application fees as established by the city fee ordinance (chapter 30 of this Code) and two sets of drawings that depict the nature, size, shape, height, type of materials and location of such requested signage.

(89) *Stake sign*. A temporary sign that does not exceed six square feet in area with a base/stake commonly made of metal, wood or other similar material approved by the building official with an end for driving into the ground.

(90) *Subdivision identity sign*. A subdivision identity sign is a sign mounted to a screening wall or engraved into a masonry block which identifies a residential development or a planned development, whether residential or noncommercial, and generally refers to the platted name of the subdivision or planned development.

a. Time. A sign permit is required. A sign permit shall not be issued to erect or place a subdivision identity sign on a property until a preliminary plat is approved by the planning and zoning commission for development of the property.

b. Place. All subdivision identity signs shall be located within the platted limits of the subdivision to which it pertains. A subdivision may contain five or more acres of land or 20 or more platted lots to qualify for a subdivision identity sign. The minimum setback for a subdivision identity sign shall be ten feet from the right-of-way.

c. Manner. Subdivision identity signs may be in the form of a sign mounted to a screening wall that does not project from the fascia of the wall more than one inch. Two subdivision identity signs are allowed per entry totaling one per side of the street.

	Maximum Area		**Maximum Height**	
	Single-Family	**Commercial Industrial**	**Single-Family**	**Commercial Industrial**

Local and collector streets	30 square feet	20 square feet per gross platted acre	6 feet	6 feet
Minor arterials	40 square feet	20 square feet per gross platted acre	6 feet	6 feet
Major arterials	50 square feet	40 square feet per gross platted acre	8 feet	30 feet
Highways	50 square feet	50 square feet	8 feet	30 feet

(91) *Subdivision monumentation*. Subdivision monumentation is a physical improvement such as signs, walls, entry features or other similar improvements constructed to draw attention to or enhance a subdivision or its surrounding area.

a. Time. A sign permit and building permit is required. A building permit and/or sign permit shall not be issued to erect or place subdivision monumentation on a property until a site plan is approved and issued by the city council for development of nonresidentially zoned property, multifamily or townhome zoned properties, or a preliminary plat or final plat is approved by the planning and zoning commission for development of single-family properties. The requirement to prepare the aforementioned plans may be waived should the owner of the property on which the monumentation is proposed to be located or his representative prepare written documentation and/or graphic illustrations to the satisfaction of city staff to explain the relationship of the proposed monumentation to future land uses on the property.

b. Place. Subdivision monumentation placed on private property shall observe all building line and setback requirements of the governing zoning district. A nonhabitable monument may encroach into a required setback provided all visibility clips and easements are observed and the monument is deemed by city staff not to negatively impact fire protection of existing or future development. Subdivision monumentation may be placed in the right-of-way subject to approval of right-of-way use agreements. Subdivision monumentation may not be erected within an area designated as future right-of-way on the city's thoroughfare plan, as it currently exists or may be amended.

c. Manner. The developer of the subdivision monumentation must provide a plan for future maintenance of subdivision monumentation to the city for review. The maximum height of subdivision monumentation shall not exceed the maximum height of the governing zoning district.

(92) *Temporary religious sign*. A temporary stake sign used to provide the name of and direction to a location occupied by a religious organization or religious group that temporarily operates in a school or other facility. A temporary religious sign identifies the meeting location/address, website information, hours of service, and/or telephone number of a religious organization or group.

a. Time. No sign permit required. A temporary religious sign may be erected

during times of worship provided that the sign is placed no earlier than two hours prior to worship and removed no later than two hours after worship.

b. Place. A temporary religious sign shall be placed on private property with consent of the property owner. Temporary religious signs shall be erected on private property not closer than ten feet from the edge of any street pavement or designated roadway or right-of-way.

c. Manner. The maximum area of a temporary religious sign shall not exceed six square feet. The maximum height of a temporary religious sign shall not exceed four feet. A temporary religious sign shall not contain balloons, streamers, flags, pennants, or wind devices.

(93) *Temporary sign*. Any sign used to display information that relates to a land use, or a sign with a limited duration which is not rigidly and permanently installed into or on the ground, attached to a building, or as identified in this article.

(94) *Traffic lights and signage*. Any traffic-related sign, light, apparatus, or device installed that provides information to vehicular drivers and/or pedestrian traffic. Traffic-related signs, lights, apparatuses, or devices requires approval from the engineering department, which includes the review and approval of design, size, placement, and any other specifications or requirements prior to installation from the traffic engineer. Exemption: Signs, lighting, apparatuses, and/or devices installed or required by federal or state laws.

(95) *Undeveloped*. An undeveloped residential or nonresidential property for which a certificate of occupancy has not been issued by the building official to occupy a building on the property or for which final acceptance has not been issued by the city.

(96) *Unified sign development plan*. A unified sign development plan is required to be prepared for variance requests. A unified sign development plan is also required prior to the issuance of a sign permit for certain signs specified in this section, or as otherwise required herein, to determine overall sign locations on a property, the relationship of the signs to surrounding existing and proposed improvements, and to determine consistency and uniformity among buildings and signs within a commercial or residential development. The unified sign development plan shall be submitted to the planning and development department.

a. A unified sign development plan shall contain the following information:

1. Elevations of the signs illustrating the materials of construction, colors, lighting, fonts of letters, and dimensions of the signs. If the sign is to be attached to a building, the elevation shall be a composite of the sign and the building;

2. Elevations depicting the size of the signs in relation to the size of the buildings within the development;

3. A plan drawn to the site plan as it currently exists or may be amended, of the site illustrating the location of existing and proposed signs on the property and, if required by city staff, on adjacent properties;

4. Other information to illustrate the consistency and uniformity of the signs; and

5. For nonresidential and multifamily developments, the unified development sign plan shall be submitted to the city for review with a site plan of the property. For single-family and two-family developments, the unified development sign plan shall be submitted to the city for review with a preliminary plat, or final plat of the property.

6. A unified development sign plan required of certain signs specified in this section, or as otherwise required herein, shall be submitted to the planning and development department. The unified development sign plan will be reviewed in accordance with the city's development review schedule and considered for approval by the city council. The city council may approve or deny the unified development sign plan. The decision of the city council is discretionary. The city council's decision is final.

(97) *V-shaped sign*. A sign that fronts two street frontages with more than five degrees of parallel.

(98) *Vacant building sign*. No sign shall be permitted to remain on any vacant building, except a sign pertaining to the lease or sale of the building to which it pertains, or a sign which is under lease from an owner or his authorized agent when such sign is maintained by a person operating under his own bond. Vacant building signage is prohibited in the city.

(99) *Variance*. An official written request to the board of adjustments to allow exceptions to regulations or requirements of this article.

(100) *Vehicle*. Any operable or inoperable motorized machine on wheels, treads, or runners by which any person, materials, commodity, or property is or may be transported.

(101) *Vehicle bay sign*. A specific type of wall sign either painted or erected against an exterior wall or erected parallel to a wall identifying the vehicle entrance (bay) to a structure.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, place or install a wall sign on a property until a site plan is approved by the city council for development of the property and after issuance of a building permit for a building on the property.

b. Place. Vehicle bay signs shall be placed immediately adjacent to the physical entrance to the building accessible to vehicles. Vehicle bay signs may also be painted or attached to the door of the vehicle bay.

c. Manner. One vehicle bay sign is allowed per vehicle bay. Any vehicle bay sign may not exceed 75 percent of the width of the vehicle bay it is identifying and may not exceed 24 inches in height.

(102) *Vehicle sign*. A sign attached to any vehicle, truck, car, bus, trailer, boat, recreational vehicle, motorcycle or any other vehicle; however, any vehicle, whether operable or not, shall not be parked and/or decorated where the intent is to use the vehicle as advertising. Vehicle signs shall exclude bumper stickers and state required registration or inspection stickers/identifications.

a. Time. No sign permit required. Vehicle signs are allowed 24 hours each and every continuing day.

b. Place. Vehicle signs are permitted provided that during periods of inactivity such vehicle is not parked in the right-of-way or placed in a manner that the vehicle sign is readily visible from an adjacent right-of-way. “For sale” signs placed in or on vehicles when the vehicle is parked or placed in a manner that the vehicle sign is readily visible from an adjacent public right-of-way are prohibited, with the exception that one vehicle may contain a “for sale” sign parked or placed at an occupied single-family, two-family, townhome, or multifamily dwelling unit is permitted.

c. Manner. Vehicle signs are permitted provided that:

1. The primary purpose of the sign is not for display of the sign;

2. The signs are painted upon or applied directly to an integral part of the vehicle;

3. The vehicle is operable, currently registered and licensed to operate on public streets and actively used in the daily function of the business to which such signs relates;

4. The vehicle is not used as a static display, advertising a product or service, not utilized as storage, shelter, or distribution points for commercial products or services for the public; and the vehicle does not meet the definition of a mobile advertisement sign.

(103) *Vending machine sign*. A sign attached to or incorporated as part of a vending machine or gasoline pump and generally advertises products dispensed, offered or sold from the vending machine or gasoline pump.

a. Time. No sign permit required. Vending machine signs may be displayed 24 hours each and every day.

b. Place. Vending machine displaying vending machine signs shall not obstruct pedestrian or vehicular traffic.

c. Manner. Vending machine signs shall be directly attached to a vending machine or gasoline pump. Vending machine signs shall be flat and shall not project from the vending machine or gasoline pump. Unless, otherwise, required by federal, state or local laws, signs that promote products or other items shall not be attached to light poles, canopy supports, rails, trees, parking signs, vehicles, or other objects.

(104) *Wall sign (primary)*. Any sign either painted or erected against an exterior wall or erected parallel to a wall. A primary wall sign is a sign erected parallel to and extending not more than 18 inches from the facade of any building to which it is attached, supported throughout its entire length by the building face. A primary wall sign identifies the name of a business and/or logo of a business. Neon shall not be installed on any wall sign installed below nine feet from grade. A primary wall sign may include neon tubing attached directly to a wall surface when forming a border for the subject matter or when forming letters, logos, or pictorial designs. This definition shall not include painted on murals. Murals are not subject to the primary wall sign regulations contained herein. Primary wall signs are permissible subject to the following conditions and upon issuance of a sign permit. No building shall have both a primary wall sign and an awning sign on the same building face.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, place or install a primary wall sign on a property until a site plan is approved by the city council for development of the property and after issuance of a building permit for a building on the property.

b. Place. Primary wall signs are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district. When projections on the wall face prevent the erection of the sign flat against the wall face, the space between the back of the sign and the wall shall be closed at the top, bottom and ends with incombustible materials. For buildings with a height of five stories or greater, a wall sign may extend above the roofline of the building on which it is attached up to 25 percent of the sign's height. The primary wall sign must be located on that portion of the building that is five stories or greater.

c. Manner.

1. The total number of primary wall signs allowed shall be as follows:

Building (Elevation) Width (in Feet)	**Number of Allowed Wall Signs**
≤ 65 feet	1
66 feet up to and including 100 feet	2
101 feet up to and including 150 feet	3
≥151 feet	4

2. The total cumulative size of all allowed primary wall signs per elevation shall be as follows:

Building Height Measured at Plate (Feet)	Maximum Sign Height (Feet)	Maximum Percentage of Wall Length*
0 to 20	4	75
> 20 to 30	6	60
> 30	8	50

*Note: Primary wall signs shall not occupy more than the maximum percentage of the length of any wall on which it is erected. Corporate logos may exceed the maximum sign height by 50 percent.

(105) *Wall sign (secondary)*. Any sign either painted or erected against an exterior wall or erected parallel to a wall. A secondary wall sign is a sign erected parallel to and extending not more than 18 inches from the facade of any building to which it is attached, supported throughout its entire length by the building face.

a. Time. A sign permit is required. A sign permit shall not be issued to erect, place or install a secondary wall sign on a property until a site plan is approved by the city council for development of the property and after issuance of a building permit for a building on the property.

b. Place. Secondary wall signs are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district. A secondary wall sign shall not count against the total number of primary wall signs allowed based on the elevation width of the building.

c. Manner. One secondary wall sign is allowed per elevation. The secondary wall sign area shall not exceed ten percent of the maximum area allowed by the primary wall sign.

(106) *Warning sign*. Sign having an area of not more than six square feet nor height greater than six feet, the message of which is limited to warning of danger or prohibitions or regulations of the use of the property or traffic parking thereon. No sign permit required.

(107) *Weekend parkway sign*. Any temporary on or off-premise sign located within the public right-of-way. Weekend parkway signs are hereby prohibited within the city with the exception of weekend parkway signs for new construction homebuilders. New construction homebuilders weekend parkway signs may be allowed until such time as the city approves a contract for, and has installed a kiosk sign program. Until a kiosk sign program has been implemented, new construction homebuilder's weekend parkway signs shall be subject to the following standards:

a. Time. Sign permit required. All new construction homebuilder weekend parkway sign(s) shall be permitted through the city. New construction homebuilder weekend parkway signs shall only be allowed to be placed between 12:00 noon on Friday and 12:00 noon the following Monday. New construction homebuilder weekend parkway signs placed outside of those

hours are prohibited.

b. Place. A new construction weekend parkway sign shall not be located within the public right-of-way and shall be located only on private property with the permission of the private property owner. A new construction weekend parkway sign shall be erected no closer than ten feet from the street pavement.

c. Manner. A new construction weekend parkway sign shall not exceed six square feet in area. The maximum height of a new construction weekend parkway sign shall not exceed four feet.

(108) *Window sign*. Any sign, poster, window slick, or other similar displayed item, excluding banners, located on the internal or external surface of a window for the purpose of advertising a business' name, telephone number, website information, services, commodities, and/or products offered or sold that are available within the building that is visible from a public street or sidewalk.

a. Time. No sign permit required. A window sign may be displayed 24 hours each and every continuing day.

b. Place. Window signs shall only be displayed on the inside or exterior of a window.

c. Manner. The maximum area of a window sign shall not exceed 15 percent of the window where the sign is displayed. Window signs are limited to one sign per window. Illuminated and non-illuminated window signs or its appendages shall not blink, strobe, fade, flash, scroll, or move in any manner. Illuminated window signs shall remain static and stationary. Window signs placed within windows subject to section 60-5 "visibility" of this Code shall be limited to 15 percent of the remaining window area not constrained by the provisions of section 60-5 of this Code.

(109) *Wind device*. Any pennant, streamer, spinner, balloon, cloud buster balloon, inflatable objects or similar devices made of cloth, canvas, plastic or any flexible material designed to float or designed to move, or moves freely in the wind, with or without a frame or other supporting structure, used for the purpose of advertising or drawing attention to a business, commodity, service, sale or product. Exception: Flags and grand opening balloons and/or grand opening balloon arrangements shall not be considered a wind device. Wind devices are prohibited in the city.

(110) *Yard sign*. A temporary stake sign used to publicize the arrival of a newborn, participation of a family member in a school activity or sport or military activity, the presence of a security system, animals, and seasonal decorations or the promotion of neighborhood activity regarding the leasing of mineral rights.

a. Time. No sign permit required. Yard signs may be erected 24 hours each and every day.

b. Place. Yard signs shall be located only on lots containing an occupied single-family, two-family, or multifamily dwelling. Yard signs shall be erected no closer than ten feet from the street pavement.

c. Manner. Signs advertising the presence of a home security system shall not exceed one square foot in area. Signs advertising the arrival of a newborn, the participation of a family member in a school activity or sport or military activity, or the presence of animals shall not exceed four square feet in area. Seasonal decorations are excluded from place and manner requirements.

(Ord. No. 1861, § 1, 8-25-09; Ord. No. 2012, § 1, 10-8-13)

Secs. 84-233–84-259 Reserved

Division 2. Permits

Sec. 84-260 Required

No sign, other than those signs allowed without a permit by section 84-232 of this article, shall be erected, placed, attached, secured, altered or displayed to/on the ground, any building, or any structure, until a permit for such sign has been issued by the building official.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-261 Permit termination

A permit issued for any sign and its supporting structure shall automatically terminate after the use for which the sign directs attention is discontinued for a period of 180 days or longer. Additionally, an annual permit shall automatically terminate and be deemed void on the first of January of each year. A permit issued for any sign including its supporting structure, shall automatically terminate in the event the sign shall fail and not be corrected within 180 days. Upon cessation of the permit for any sign, such sign and its supporting structure shall thereafter constitute a non-permitted structure and shall be subject to removal pursuant to the provisions of the building code and the owner thereof or occupant of the premises upon which the sign is situated shall be subject to fine and/or penalty as provided pursuant to the provisions of this code and the building codes of the city.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-262 Application for permit

An application for a sign permit may be obtained from the city. The building official shall approve or deny an application for a sign permit within 30 days of the city's receipt of the application. A sign permit will be issued if a proposed sign conforms to all city ordinances. Upon request by the city, a diagram shall be provided showing the location of all signs on the property and/or adjacent properties. Incorrect information on an application shall be grounds for denial or revocation of a sign permit. Application for a sign permit shall be made in writing upon forms furnished by the building official. Such application shall contain the location by street and address number of the proposed sign structure, height, area, sign function, as well as the

name, address and phone number of the owner and sign contractor or erector. The building official may require the filing of plans or other pertinent information which, in their opinion, such information is necessary to insure compliance with this article. Standard plans may be filed with the building official.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-263 Fees

A sign permit fee and a plan checking fee shall be paid to the city in accordance with the most current fee schedule adopted by the city.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-264 Maintenance

(1) All signs and supporting structures, together with all their supports, braces, guys and anchors shall be kept clean, neatly painted, free from all hazards, including, but not limited to, faulty wiring and loose fastenings, and be maintained in a safe condition at all times so as not to be detrimental to the public health and safety. In the event that a sign fails to meet the qualifications of this section, the building official or their designee shall give written notice to the person or persons responsible for such sign. If the sign is not repaired or replaced within 60 days of such written notice, the permit for such sign shall be revoked and the administrator is then authorized to cause the removal of the sign. If such sign cannot be demolished because it is painted on a non-sign structure, such sign shall be painted over or removed by sandblasting. Any expenses incurred shall be paid by the owner of the land, building, or structure on which the sign was removed. The building official shall also file a lien against the property in the amount of the cost of any and all such work.

(2) In the event that the property for which the signage was intended for or on which the signage is located has closed the business for a period of time exceeding 60 days, the building official may require the owner of such property to cover all signage so as to make all sign faces blank and free from wording or advertisement.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-265 Inspections

(1) All signs for which a permit is required shall be subject to inspection by the building official.

(2) Footing inspections may be required by the building official for all signs having footings with the exception of poles constructed to display permitted flags.

(3) All signs containing electrical wiring shall be subject to the provisions of the governing electrical code, and electrical components shall bear the label of an approved testing agency.

(4) All signs may be re-inspected at the discretion of the building official.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-266 Measurement of sign area and height

(1) The area of a sign shall be measured as follows:

a. For signs in the shape of a square, rectangle, circle, or similar standard geometric shape, the area shall be calculated by using the standard mathematical formula ([square equals] height multiplied by width, [circle equals] 3.14 multiplied by radius squared, etc.). This method of measurement is most commonly-used for banners, commercial real estate signs, model home signs, monument signs, project development signs, and stake signs.

b. For sign with a shape that is irregular, the area shall be measured by enclosing the sign elements to the closest geometric shape. The method of measurement is most commonly used for awning signs and wall signs with individual lettering and for irregularly-shaped signs.

c. The area of a spherical, cylindrical, or other three-dimensional sign shall be measured by calculating the area of a two-dimensional drawing of the largest elevation of the sign.

d. Where a sign has two faces, the area of both faces shall be used to determine the area of the sign; provided, the two faces are within five degrees of parallel. Where a sign has two or more faces and exceed greater than five degrees from parallel, the sign area shall be calculated as the sum of the area of each face (a “V-shaped” sign). A V-shaped sign is only permitted at the corner of a property with two-street frontages.

(2) The area of primary wall signs containing multiple elements shall be calculated as follows:

a. Regardless of the spacing between letters, letters forming a word or name shall be considered a single sign.

b. When two or more separate items in a sign, such as a word or logo, are separated horizontally or vertically by less than the width or height of the largest item, the items shall be considered a single sign and the area shall be determined by measuring the area enclosing the sign elements with straight, intersecting lines. The following sign elements are considered one sign.

c. When two or more separate items in a sign, such as a word or logo, are separated horizontally or vertically by more than the width or height of the largest item, the items shall be considered a separate sign and the area of each item shall be determined individually. The following sign elements are considered two signs.

(3) The supports of a stake sign, A-frame sign, project development sign, or commercial real estate sign shall not be included in calculating the area of a sign, but shall be included in the measurement of the height of a sign.

(4) The height of all signs shall be measured from the top edge of the sign and/or support structure to the average finished grade below the sign and/or support structure, unless otherwise noted in this article. If a sign is located on a mount, berm, or other raised area for the sole purpose of increasing the height of the sign, the height of the mound, berm, or other raised area shall be included in the height of the sign. Measurement for a sign height will be determined from the curb grade at the property line.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-267 Sign specifications, design and other requirements

(1) Compliance with Unified Development Code, International Building Code, National Electrical Code, and other ordinances. All sign structures shall comply with the city's Unified Development Code, as it currently exists or may be amended, the International Building Code, the National Electrical Code, and other city ordinances, as they currently exist or may be amended. If the standards as described herein are more restrictive than another ordinance or code, then the provisions of this article shall apply.

(2) Visibility. All signs shall observe all visibility requirements. Signs shall not be placed within visibility triangles, or corner clips as defined in the city's thoroughfare and circulation design requirements, as it currently exists or may be amended. Signs shall not create a hazard.

(3) Signs posted in specified areas. Unless otherwise permitted within this article, no person shall post or cause to be posted, attach or maintain any sign upon:

a. Any city-owned property or right-of-way without written permission of the city manager or their designated representative;

b. Any utility easement. Should a property owner be able to demonstrate to the city engineer and/or franchise utility company that there is no other viable location for a sign other than a utility easement, a sign may be located within the utility easement subject to written approval from the city engineer and/or franchise utility company and subject to the providing of a letter to the city releasing the city of any liability for repair or replacement of a sign damaged by work occurring within the utility easement;

c. Any tree, utility pole or structure, street sign, rail, or any fence;

d. Any fence, railing or wall, except in accordance with subsection 84-232 (102) of this article (Wall sign (primary)); or

e. Any sidewalk within the right-of-way or sidewalk easement, curb, gutter, or street, except for house numbers or fire lane designation.

(4) Signs attached to fire escapes. No sign shall be attached in any manner to any fire escape or to the supporting members of any fire escape, nor shall it be guyed to or supported by any part of a fire escape.

(5) Accumulation of rainwater. All signs shall be constructed to prevent the accumulation of

rainwater in the sign.

(6) Location near telephone cable, power line, or streetlight. No sign shall be erected nearer than two feet from any telephone cable, power line or any streetlight standard.

(7) Signs not to block or interfere with exits or windows, or pedestrian and vehicular traffic. No sign shall be erected to block, partially block, or interfere in any way with a required means of exit from any building nor with any window. No sign shall block, interfere, or otherwise hinder pedestrian or vehicular traffic on a public sidewalk, a public thoroughfare, a fire lane easement, or a driveway required to access parking.

(8) Glass signs over public property or pedestrian area. Signs constructed of glass or other materials which may shatter upon impact are prohibited over a public right-of-way or pedestrian area.

(9) Identification marking required. All signs that require the issuance of a permit after adoption of this article shall have attached, written, or painted in a weatherproof manner and in a conspicuous place thereon, in letters not less than one inch in height, the date of erection and the sign permit number on the sign.

(10) Assumed wind load for design purposes. For the purposes of design of structural members in signs, an assumed wind load of 20 pounds per square foot shall be used.

(11) Multiple signs on a property or building. The permitting of a sign on a property or building shall not preclude the permitting of other types of signs on a property or building, unless the signs are expressly prohibited herein.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-268 Removal impoundment of prohibited signs

(1) All prohibited signs or noncompliant signs shall be considered a public nuisance and are prohibited by this article in the city. Upon identification of any prohibited sign, the building official or their designee shall provide written notification of the violation to the owner of the property on which the prohibited sign is located and/or the installer of the sign. The notification shall state that the offending sign shall be removed by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located within the time period prescribed after written notification to do so by the building official. The notification shall further state that if the prohibited sign is not removed within a specific timeframe (not to exceed ten days) a citation may be issued and the city may resort to any civil remedy available up to and including impoundment. If any sign is determined to present an immediate danger to public health, safety, or welfare, the city shall remove it immediately. Within ten days of the removal of the sign, the building official shall notify the owner of the property on which the sign was located of the reasons for the removal of the sign. Signs authorized by a sign permit number with an expiration date shall be removed promptly upon the date of expiration. Signs remaining after the date of expiration shall be deemed prohibited. The sign permit that provides the expiration date shall be considered adequate notice of violation.

(2) It shall be unlawful for any person, firm, entity or corporation receiving such written

notification or having an expired sign permit to fail to comply with the direction of the notification. In the event failure to comply with such notice provided, the building official is hereby authorized to cause the removal and impoundment of such sign. Any expenses incident thereto shall be the responsibility of the owner, agent or person having beneficial use of the land, building or structure upon which such sign was located.

(3) If a sign is placed within a public right-of-way or on a city-owned property in violation of this article, the sign may be immediately removed and impounded.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-269 Impounded signs and recovery

(1) Impounded signs may be recovered by the owner within 15 days from the date of the written notification of impoundment by paying a fee as follows:

a. A fee of $200.00 for signs which are six square feet or less in area.

b. A fee of $400.00 for signs which are larger than six square feet in area.

(2) Impounded signs not recovered within 15 days of impoundment may be disposed of by the city in any manner it shall elect.

(3) Illegal signs removed from public property, including the city's right-of-way, park property or other city maintained area may be immediately disposed of by the city in any manner it shall elect.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-270 Neglected and abandoned signs

(1) Abandoned signs and neglected signs shall be considered a public nuisance and are prohibited by this article. Upon written notification by the building official or their designee, such abandoned signs shall be removed from the premises and neglected signs shall be repaired or removed from the premises by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located. The notification shall state that the offending sign shall be repaired or removed by the owner, agent or person having beneficial use of the land, building or structure upon which such sign is located within ten days after written notification to do so by the building official or his representative. The notification shall further state that if the sign is not removed or repaired, a citation may be issued and the city may resort to any civil remedy available to remove or repair the sign, up to and including impoundment. If any sign is determined to present an immediate danger to public health, safety or welfare, the city shall remove it immediately. Within ten days of the removal of the sign, the building official shall notify the owner of the property on which the sign was located of the reasons for the removal of such sign.

(2) It shall be unlawful for any person, firm, entity or corporation receiving such written notification to fail to comply with the direction of the notice. In the event failure to comply with such notice provided under this section, the building official is hereby authorized to cause the

removal and impoundment of such sign. Any expenses incident thereto shall be the responsibility of the owner, agent, or person having beneficial use of the land, building or structure upon which such sign was located.

(Ord. No. 1861, § 1, 8-25-09)

Secs. 84-271–84-279 Reserved

Division 3. Nonconforming Uses; Variances

Sec. 84-280 Nonconforming uses/signs and sign variances

It is the declared purpose of this division that nonconforming signs and signs directing attention to nonconforming uses, eventually discontinue and the signage comply with the regulations stated herein, having due regard for the investment in such signs. Any sign that does not conform to the regulations stated herein shall be deemed a nonconforming sign. Any lawfully existing nonconforming use or building may erect and maintain a sign in accordance with the schedule of on-premises signs contained in section 84-232 of this article and other applicable sections of this chapter regardless of the zoning district in which the use the sign serves is located.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-281 Use of lawfully existing nonconforming signs

Any permanent nonconforming sign that was lawfully erected and operated prior to the effective date of this chapter may be used and maintained exactly as such existed upon the effective date of this chapter. No lawfully existing nonconforming sign shall:

(1) Be changed to another nonconforming sign except as provided for by or section 84-280 of this article.

(2) Have any changes made in the words or symbols used or the message displayed on the sign unless the sign is specifically designed for periodic change of messages such as a changeable reader board or electronic message center or billboard.

(3) Be structurally altered so as to prolong the life of the sign or change the shape, size, type or design of the sign.

(4) Be reestablished after the activity, business, or usage to which it relates has been discontinued over a period of 180 days or longer.

(5) Be reestablished after damage or destruction of said sign if the estimated expense of reconstruction exceeds 50 percent of the reproduction cost.

(6) All lawfully existing nonconforming wall signs directly painted on the elevation wall shall be required to be in compliance with the standards of section 84-232 of this article if the organization, business, company, lessee or other entity is required to apply for a renewal or new certificate of occupancy.

(Ord. No. 1861, § 1, 8-25-09)

Sec. 84-282 Variances to the sign standards

The board of adjustment may grant variances from the requirements of [section 84-232] of this article, upon application and finding that the granting of the variance will reduce the degree of nonconformity of an existing sign or will result in the removal of one or more lawfully existing nonconforming signs and replacement by sign or signs more in keeping with the spirit, purpose and provisions of this chapter. Should the board of adjustment grant a variance which permits the erection or maintenance of a nonconforming sign, said sign shall be deemed a lawfully existing nonconforming sign and shall be subject to the requirements for same stated herein.

(Ord. No. 1861, § 1, 8-25-09)

Secs. 84-283–84-329 Reserved

ARTICLE VII. LANDSCAPING, FENCES, WALLS, SCREENING AND OUTDOOR STORAGE REQUIREMENTS

Division 1. Generally

Sec. 84-330 Purpose and intent

The purpose and intent of this article is as follows:

(1) Stabilizing ecological balance. To aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, ground water recharge, and stormwater runoff retardation, while at the same time aiding in noise, glare and heat abatement.

(2) Retention of native vegetation. To ensure that the local stock of native trees and vegetation is retained and replenished.

(3) Adequate light and air. To assist in providing adequate light and air and in preventing overcrowding of land.

(4) Visual buffering. To provide visual buffering and enhance the beautification of the city.

(5) Enhancement of property values. To safeguard and enhance property values and to protect public and private investment.

(6) Economic base. To preserve and protect the unique identity and environment of the city and to preserve the economic base attracted to the city by such factors.

(7) Conservation. To conserve energy.

(8) Protection. To protect the public health, safety and general welfare.

(Ord. No. 1133, § 1(7-100), 3-22-94)

Sec. 84-331 Landscaping requirements

This article specifies the standards for the treatment of open space in a manner so as to promote safety, preserve property value, promote the general welfare of the city, and to enhance the aesthetic quality of the community.

(Ord. No. 1133, § 1(7-200), 3-22-94)

Sec. 84-332 Applicability

Except as otherwise provided below, these regulations shall apply to all land within the city. Such landscaping standards shall become applicable at such times as an application for a building permit is made. These requirements remain with any subsequent owner.

(1) Exemptions. These requirements shall not apply to building permits for the following:

a. Land in planned development districts having a specifically approved landscape plan;

b. Substantial restoration within a period of 12 months for a building which has been damaged by fire, explosion, flood, tornado, riot or calamity of any kind;

c. Remodeling as long as the front and side exterior walls of the building remain in the same position.

(2) Prior approvals. Where a specific landscape plan has been approved prior to the effective date of this chapter, the landscaping requirements of the city in effect at the time of such approval shall apply.

(Ord. No. 1133, § 1(7-201), 3-22-94)

Sec. 84-333 Landscaping standards for one-and two-family dwellings

All one- and two-family dwellings shall have installed not less than 14 locally adapted shrubs and two two-inch caliper locally adaptable large trees. Such required landscaping shall be located within the front yard and be in a thriving condition at time of final inspection of the main structure.

(Ord. No. 1133, § 1(7-202), 3-22-94)

Sec. 84-334 Landscaping standards for other than one- or two-family dwellings

(a) Area required. On all lots, not less than 15 percent of the area of the street yard shall be landscaped area. All of the required landscaped area shall be located in the street yard and parking lots.

(b) Trees required. At least one large tree of at least three inches in caliper and 12 feet in initial height shall be provided as follows:

(1) Street yards less than 10,000 square feet. In street yards of less than 10,000 square feet, one tree per 1,000 square feet, or fraction thereof, of street yard shall be maintained.

(2) Street yards between 10,000 and 100,000 square feet. In street yards of more than 10,000 square feet and not more than 100,000 square feet, not less than ten trees plus one tree per 2,000 square feet, or fraction thereof, of street yard area over 10,000 square feet shall be maintained.

(3) Street yards of more than 100,000 square feet. In street yards of more than 100,000 square feet, not less than 55 trees plus one tree per 4,000 square feet, or fraction thereof, of street yard area over 100,000 shall be maintained.

(4) Credit for existing trees. An existing or planted tree of at least six inches in diameter and at least 15 feet in height shall be considered as two trees for purposes of satisfying this requirement. All existing trees used to satisfy the minimum required number of trees shall be maintained in an undisturbed permeable area contained within the dripline of the tree.

(5) Ornamental trees. In lieu of one large tree, two small trees (as listed on the plant list contained herein) may be used. Said small trees shall be a minimum of six feet in height at the time of planting. Not more than 50 percent of the required large trees may be substituted by installing ornamental trees at a rate of two ornamental trees to one large tree. All newly planted trees shall be planted in permeable area of not less than three feet in diameter.

(c) Shrubbery required. Placement of shrubbery shall be taken into consideration as to the plant at full maturity, and be located so as not to conflict with vehicular or pedestrian traffic visibility. Shrubbery shall be provided as follows:

(1) Street yards of less than 10,000 square feet. In street yards of less than 10,000 square feet, not less than one shrub shall be maintained for every 50 square feet of the area required to be landscaped.

(2) Street yards between 10,000 and 100,000 square feet. In street yards having at least 10,000 and not more than 100,000 square feet, 30 shrubs plus one shrub per 100 square feet of required landscaped area over 1,500 square feet shall be provided.

(3) Street yards more than 100,000 square feet. In street yards of more than 100,000 square feet, not less than 165 shrubs plus one shrub per 500 square feet of required landscaped area over 15,000 square feet shall be maintained.

(d) Ground cover required. Ground cover shall be provided as follows:

(1) Street yards less than 10,000 square feet. In street yards of less than 10,000 square feet, not less than ten percent of the land area required to be landscaped shall be maintained in ground cover.

(2) Street yards 10,000 square feet or more. In street yards of 10,000 square feet or more, not less than 150 square feet of ground cover plus five percent of the required landscaped area over 1,500 square feet (up to 4,000 square feet) shall be maintained in ground cover.

The remaining landscaped area shall be maintained in lawn grass and bedding plants, with mulch used around bedding plants, shrubs and trees. All ground cover areas shall be kept clear of weeds and undergrowth.

(e) Parking lots and vehicular use areas. A minimum amount of the total area of all vehicular use areas shall be devoted to landscaped islands, peninsulas or medians.

(1) Street yard area. The minimum total area in such islands, peninsulas and medians in the street yard shall be 90 square feet for each 12 parking spaces. Landscape islands, peninsulas and medians located in the street yard may be included in calculating the minimum required landscape in the street yard.

(2) Nonstreet yard area. The minimum total area in such islands, peninsulas and medians in the nonstreet yard shall be 60 square feet for each 12 parking spaces.

(3) Distribution of islands, medians, and peninsulas. The number, size, and shape of islands, peninsulas, and medians, in both street and nonstreet yards shall be at the discretion of the applicant. All required islands, peninsulas and medians shall be more or less evenly distributed throughout such parking areas, respectively; however, the distribution and location of landscaped islands, peninsulas, and medians may be adjusted to accommodate existing trees or other natural features so long as the total area requirements for landscaped islands, peninsulas, and medians for the respective parking areas above is satisfied.

(f) Indiscriminate clearing prohibited. The existing natural landscape character (especially native oak, elm and pecan trees) shall be preserved to the extent reasonable and feasible. In an area of the street yard containing a stand of trees, the applicant shall use best good faith efforts to preserve such trees. In determining compliance with this subsection, the administrator shall consider topographical constraints on design, drainage, access and egress, utilities, and other factors reasonably related to the health, safety and welfare of the public which necessitated disturbance of the existing natural character; the nature and quality of the landscaping installed to replace it; and such other factors as may be relevant and proper. Indiscriminate clearing or stripping of the natural vegetation is prohibited.

(g) Irrigation. All required landscaping shall be irrigated by an underground irrigation system approved by the administrator.

(h) Erosion control. All impervious areas shall be maintained with groundcover and shrubbery in a manner to control erosion.

(i) Protection. All required landscaped areas which are adjacent to pavement shall be protected with concrete curbs or equivalent barriers (such as railroad ties, continuous border plants or hedgerows).

(j) Obstruction prohibited. Landscaping shall not be located or placed to obstruct any emergency equipment such as fire hydrants and sprinkler system connections, etc., nor shall landscaping be placed in a manner to obstruct emergency ingress/egress access to the building. Landscaping shall not obstruct views between the street and access drives or parking aisles near street yard entries and exits, nor shall any landscaping obstruct views within the radius of any curb return. Sight triangles shall be provided within the property at all driveways and street intersections. Sight triangles shall be eight feet by 70 feet with the eight-foot leg within the property along the driveway.

(k) Maintenance. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include mowing, edging, pruning, fertilizing, watering, weeding, and other such activities common to the maintenance of landscaping.

Landscaped areas shall be kept free of trash, litter, weeds, and other such materials or plants not a part of the landscaping. All plant material shall be maintained in a healthy and growing condition as is appropriate for the season of the year. Plant material which dies shall be replaced with plant material of similar variety and size.

(l) Right-of-way. Landowners are encouraged to landscape nonpaved publicly-owned street right-of-way abutting their land. Provided, however:

(1) Removal of landscaping. The city may at any time remove or require the landowner to remove any landscaping located within any right-of-way or public easement for the purpose of public safety, access to utilities and to perform any public improvements within said right-of-way or public easement.

(2) Traffic regulations. Such landscaping in the right-of-way shall observe established rules and regulations pertaining to traffic and pedestrian safety.

(m) Parking lot lighting. Landscape provided in vehicular and pedestrian use areas shall be designed so that the maturing of the landscaping will not conflict with the lighting scheme.

(n) Recommended plants. All plants used to satisfy this chapter shall be of a species common or adaptable to this area of Texas. The following is a list of recommended plants within each plant material type. The applicant may propose plants other than those listed if the plant is appropriate for the intended use.

Recommended Plants

Large Trees						
Common Name	**Botanical Name**	**Comments**	**Evergreen?**	**Height**	**Growth**	**Water**
Afghan Pine	Pinus eldarica	Fast growing, drought tolerant	No	25–50'	Rapid	Mod
Bald	Taxodium	Likes wet feet, fall	No	50'+	Mod	Moist

Cypress	distichum	color				
Bradford Pear	Pyrus calleryana “Bradford”	Shiny foliage, disease resistant	No	25–50'	Mod	Mod
Bur Oak	Quercus macrocarpa	Nice branching shade tree	No	50'+	Rapid	Mod
Cedar Elm	Ulmus crassifolia	Nice for shade	No	25–50'	Mod	Mod
Lacebark Elm	Ulmus parvifolia	Fast growth, disease resistant	No	25–50'	Rapid	Mod
Live Oak	Quercus virginiana	Long lived	Yes	25–50'	Slow	Dry
Pecan	Carya Illinoensis	Texas state tree, great for shade	No	70'	Mod	Moist
Pistache	Pistachia chinenesis	Fall color, rapid growth	No	25'	Rapid	Mod
Red Oak	Quercus Shumardii	Red fall color excellent shade	No	50'+	Rapid	Mod
Southern Magnolia	Magnolia grandiflora	Large evergreen	Yes	60–70'	Mod	Moist

Small Trees						
Common Name	**Botanical Name**	**Comments**	**Evergreen?**	**Height**	**Growth**	**Water**
Crape Myrtle	Lagerstroemia indica	Summer blooms in many colors	No	<25'	Rapid	Mod
Japanese Black Pine	Pinus thunbergi	Evergreen ornamental	Yes	<25'	Mod	Mod
Mexican Plumb	Plumus mexicana	Bright white flowers	No	<25'	Mod	Mod
Purpleleaf Plum	Prunus cerasifera	Purple foliage, flowers in spring	No	<25'	Rapid	Mod-dry
Redbud	Cercis canadensis	Pink flowers in spring	No	<25'	Mod	Mod
Yaupon Holly	Ilex vomitoria	Very hardy, great in small areas	Yes	<25'	Rapid	Mod-dry

Shrubs						
Common Name	**Botanical Name**	**Comments**	**Evergreen?**	**Height**	**Growth**	**Water**
Dwarf Burford Holly	Ilex cornuta “Bufordii nana”	Shiny green leaf	Yes	5'	Mod	Mod
Dwarf Chinese	Ilex cornuta “Rotunda”	Low rounded growth, tough	Yes	3'	Slow	Mod

Holly						
Dwarf Yaupon	Ilex vomitoria “nana”	Dense rounded growth	Yes	3'	Slow	Mod
Flowering Quince	Chanomeles “Texas Scarlet”	Red flower, early spring	No	6'	Mod	Mod
Forsythia	Forsythia intermedia	Yellow flower in early spring	No	6'	Mod	Mod
Japanese Barberry	Berberis thunbergi	Thorns, red foliage	Yes	2–5'	Slow	Mod
Nandina	Nandina Domestica	Red winter foliage	Yes	6'	Rapid	Mod
Pampas Grass	Cordateria Selloana	Fall flower	Yes	6'	Rapid	Mod
Photinia	Photinia Fraseri	Tall, red foliage spring/fall	Yes	15'	Rapid	Mod
Sea Green Juniper	Juniperus Chinensis “Sea Green”	Arching growth	Yes	6'	Mod	Mod
Spiraca	Spiraca prunifolia	White flower, April-May	No	6'	Mod	Mod
Tam Juniper	Juniperus sabina “Tam”	Low growth, tolerates heat	Yes	5'	Mod	Dry
Texas Sage	Leucophyllum frutescens “nana”	Gray foliage, blooms after rain	Yes	6'	Slow	Mod-dry

Ground Covers						
Common Name	**Botanical Name**	**Comments**	**Evergreen?**	**Height**	**Growth**	**Water**
Asian Jasmine	Trachelospermum asiaticum	Rapid spread	Yes	1.5'	Rapid	Mod
Euonymus Coloratus	Euonymus fortunei “coloratus”	Winter color	Yes	1.5'	Mod	Mod
Juniper Species	Jun. horizontalis, procumbens	Tolerates heat/drought	Yes	1.5'	Slow	Mod
Mondo Grass	Ophiopogon japonicus	Small dark leaves	Yes	8"	Rapid	Mod
Monkey Grass	Liriope muscari	Hardy, blue flower	Yes	1.5'	Rapid	Mod
Vinca/ Periwinkle	Vinca Minor	Shade, blue flowers	No	1.5'	Rapid	Mod

(Ord. No. 1133, § 1(7-202), 3-22-94; Ord. No. 1170, § I, 4-11-95)

Sec. 84-335 Approval procedures

(a) Landscape plan required. A landscape plan shall be required containing the following information:

(1) Date, graphic scale, north arrow, title and name of applicant/owner.

(2) Location of existing boundary lines and dimensions of the tract.

(3) Approximate centerline of existing water courses; location of significant drainage features; and the location and size of existing and proposed streets, alleys, utility and emergency access easements and sidewalks.

(4) Location, size, and type (tree, shrub, groundcover or grass) of landscaping in proposed areas and location and size of proposed landscaped areas.

(5) Location and species of existing trees having trunks of six inches or larger in diameter and the approximate size of their crowns.

(6) Information necessary for verifying the required minimum amount of landscaped area.

(7) Plans for protecting retained existing trees from damage during construction.

(8) Location and size of the proposed irrigation system.

(b) Professional requirement. Landscape plans for projects which incorporate over two acres of lot area shall be prepared and signed by a licensed professional landscape architect. All irrigation plans shall be prepared and signed by a licensed irrigator or other professional authorized by the state to design such systems.

(c) Plan approval. Landscaping and irrigation shall be installed in accordance with plans approved by the administrator. Should the administrator deny a landscaping scheme for noncompliance with the requirements the applicant, may, within seven days of the decision, appeal that decision to the planning and zoning commission. The planning and zoning commission shall be the final judge as to whether the proposed landscape plans complies with the intent of these regulations. However, not less than three-quarters of all the members of the planning and zoning commission shall be required to overturn the decision of the administrator.

(d) Fee required. An inspection fee in an amount set by council shall be collected by the administrator at the time of application of a building permit.

(e) Fiscal arrangements. If, at the time of an application for a certificate of occupancy, required landscaping is not yet in place for seasonal consideration, the applicant shall make fiscal arrangements (by bond, certificate of deposit, or letter of credit) satisfactory to the city in the amount of $2.00 per square foot of required landscaping not yet in place to ensure that such shall be installed. Any applicant making such fiscal arrangements shall also grant to the city license to enter upon the land for the purposes of installing the required landscaping in the

event that such landscaping is not installed by the applicant within nine months. Such fiscal arrangements shall be for a period of not less than 12 months.

(Ord. No. 1133, § 1(7-203), 3-22-94)

Sec. 84-336 Screening requirements

(a) Applicability. These regulations shall apply to all land within the city. Such screening regulations shall become applicable upon any change of use, ownership, occupancy or at such time as a building permit is applied for except as otherwise specified by this chapter.

(b) Types of screening (in general). Where required, screening fences and walls shall be erected to a height not less than six feet and provide a visual barrier from adjacent properties and streets. Such screening shall be permanently and adequately maintained by the owner of the property on which the screening is required. Except for the landscape buffer, no screening fence or wall shall have more than 40 square inches of openings over any one square foot of fence or wall surface. Only the following types of screening shall qualify as meeting the requirements of this chapter.

(1) Landscaped buffer. This type of screening shall consist of a landscaped strip of not less than five feet in width and shall include hedgelike shrubbery of evergreen planting material capable of obtaining a minimum height of six feet within the first three years of initial planting. Such evergreen planting material shall be planted at a minimum spacing of four feet on centers and be a minimum height of two and one-half feet at initial planting. An automatic underground drip irrigation or sprinkler system shall be provided for all required landscaped buffer screens. Any landscaped buffer required by this code shall be maintained in a healthy, thriving condition.

(2) Screening fence. Fencing may consist of a solid wood panel or a galvanized metal chainlink fence with all-weather slats interwoven into the metal fabric. Such fencing shall be constructed on metal posts and placed in concrete footings with bracing. When a screening fence is required, a ribbed metal panel fence or masonry wall as described below may be used.

(3) Ribbed metal panel fence. A ribbed metal panel fence shall be suitably finished to blend with the primary structure and shall be erected on a structurally sound metal frame set in concrete. When a ribbed metal panel fence is required, a masonry wall described below may be used.

(4) Masonry wall. A masonry fence or wall shall be constructed with the finish side out and of any of the following materials: native stone, brick, precast concrete panels with decorative finish or decorative masonry unit. In no case shall more than 25 percent of the area of the wall be erected with common smooth faced masonry units. Masonry wall panels must be engineered with structural concrete footings. Steel lintels shall be required for thin wall construction. Brick detailing shall be added to the top of a masonry wall to produce a change in texture and plane, and offsets shall be created in the wall to provide visual variety. Masonry columns must be installed at a maximum of 30 feet on centers, shall be taller than the rest of the wall, and shall have decorative caps.

(c) Screening of satellite reception dishes. All ground-mounted satellite television reception dishes greater than eight feet in diameter and authorized herein without special use permit, wherever located, shall be visually screened on all sides by a five-foot wide landscaped buffer as described by section (b)(1) above.

(d) Screening required between uses and dissimilar districts. Screening between an incoming use and a less intensive zoning district shall be provided prior to occupancy of the incoming use. Uses not specifically listed shall comply with the screening requirements for the listed use it most closely resembles. Said screening shall comply with the following table.

Table 7-A. Minimum Screening Between Uses and Districts

		Incoming Use								
		Single-Family Detached	**Single-Family Attached**	**Duplex**	**Modular or Mobile Home**	**Town House**	**Multi-Family**	**Office Retail Service**	**Ware-house/ Storage**	**Manu-facturing Assem-bly**
		SFD	**SFA**	**DUP**	**MH**	**TH**	**MF**	**COMM**	**WH**	**MFG**
A	R-1C	None	b	b	a & b	a & b	a & d	a & d	a & d	a & d
D	R-1	None	b	b	a & b	a & b	a & d	a & d	a & d	a & d
J	R-1L	None	b	b	a & b	a & b	a & d	a & d	a & d	a & d
A	R-1A	None	None	b	b	b	a & b	a & b	a & d	a & d
C	R-2	None	None	None	b	b	a & b	a & b	a & d	a & d
E	MH	None	None	None	None	b	a & b	a & b	a & d	a & d
N	R-3	None	None	None	None	None	b	a & b	a & d	a & d
T	R-4	None	None	None	None	None	None	a	a & c	a & c
	R-5	None	None	None	None	None	None	a	a & c	a & c
Z	C-1	None	None	None	None	None	None	None	c	c
O	C-2	None	None	None	None	None	None	None	c	c
N	TX-10	None	None	None	None	None	None	None	None	c
I	LI	None	None	None	None	None	None	None	None	c
N	I-1	None	None	None	None	None	None	None	None	None
G	I-2	None	None	None	None	None	None	None	None	None
	Public right-of-way abutting side or rear yards	D	D	D	D	None	None	None	None	None

a = Five-foot landscape strip with six feet tall evergreen hedge (as per subsection (b)(1)).

b = Six-foot high fence, wood or chainlink with slats (as per subsection (b)(2)).

c = Six-foot high ribbed metal panels (as per subsection (b)(3)).

d = Masonry wall or fence (constructed as per subsection (b)(4)) of not less than six feet nor more than eight feet in height.

(e) Refuse/recycling collection areas other than single-family or two-family uses. No refuse/recycling collection areas shall be located within the required front or street side yard or within 20 feet of any property zoned for single-family or two-family residential purposes. Refuse/recycling collection areas shall be screened from adjacent properties and streets on a minimum of three sides within a masonry wall enclosure meeting the standards of subsection (b)(4) above. Wall height of the masonry enclosure shall be six feet or the height of the proposed refuse/recycling receptacle whichever is greater. If the refuse/recycling receptacle is a dumpster, the dumpster shall be spaced a minimum of two and one-half feet from the inside walls of the masonry enclosure, and such spacing shall be maintained by the placement of wheel stops or bollards on all four sides to center and space the dumpster within the enclosure. Such wheel stops shall be securely affixed to the pavement and shall be spaced to allow for drainage. A concrete pad shall be contained within the masonry wall enclosure and shall extend not less than 12 feet in front of the enclosure. Such concrete pad shall be paved and reinforced as specified in section 84-202(2), Table 5-A-1. Significant effort shall be made to orient the unscreened opening of refuse/recycling collection areas away from view of a public street where practical. All refuse/recycling collection areas established from and after the effective date of this amendment shall conform to the requirements of this section.

(Ord. No. 1133, § 1(7-300), 3-22-94; Ord. No. 1339, § III, 3-23-99; Ord. No. 1443, § I, 9-26-00; Ord. No. 1633, §§ I, II, 3-23-04)

Sec. 84-337 Open storage and use areas

(a) Applicability. This section shall apply to all land within the city upon the effective date of the chapter. Planned development, specific use permits or other plans approved by city council specifically authorizing outside sales, storage or display shall be permitted in accordance with the provisions established at approval.

(b) Residential uses. In all residential districts, no open outside accessory storage or display of materials, commodities, or machinery shall be permitted, other than that which is incidental to the main use of the property as a residence. The following conditions shall apply to incidental storage and temporary residential outdoor storage:

(1) Incidental storage.

a. Permitted behind the main structure.

b. Area devoted to storage is not more than 60 percent of the required rear yard.

c. Said area shall be kept neat and clean and free of all tall grass and weeds.

d. Must be screened from all adjacent properties and streets in accordance with subsection 84-336(b)(1) or (b)(2) of this article.

e. No materials shall be stacked to a height greater than the visual screen.

f. Materials shall not be stored in a manner which would attract or harbor vermin.

(2) Temporary outdoor storage per section 84-7 “Definitions and word usage”. (See

subssection 84-85(a) for definitions and conditions associated with the use of accessory buildings in residential districts).

a. Permit required. Homeowner must contact building official or his designee to apply for a temporary permit that will be displayed on container and identify when container shall be removed. (See section 30-8 for fee schedule)

b. Effective period. Temporary permit valid for 30 days. Limited to two times per year. Under extreme circumstances, applicant may appeal to building official who may consider granting an extension.

c. Portable on demand (PODS) containers can be no larger than eight feet x 16 feet on the ground and eight feet tall.

d. Roll-off containers can be no longer than 40 cubic yards.

e. Cannot be located in easement, alley way, street, or public right-of-way.

f. Prefer placement on paved surface. If not available, location on unpaved surface must be approved by building official.

g. Cannot be located any closer than three feet from primary structure.

h. Container should be secured when unattended for safety reasons. The structure must be kept clean and free of trash and debris at all times.

(c) Nonresidential uses. Except as otherwise specifically authorized by these codes, all outdoor sales, storage and display areas shall be located behind building lines and shall be screened in accordance with section 84-336(b)(2). Any outside storage or outside use area established after the effective date of this chapter shall be screened by a fence in accordance with section 84-336(b)(2) unless the screen is visible from public street, in which case that portion of the screen visible to the street shall be masonry in accordance with section 84-336(b)(4). Openings for access to the outside storage or outside use area shall be equipped with gates capable of screening the activities and user from view when closed. Such gates shall not be designed to swing outward towards the street. In no case may any materials be stored higher than the screening provided.

(Ord. No. 1133, § 1(7-400), 3-22-94; Ord. No. 1708, § II, 9-27-05)

Secs. 84-338–84-359 Reserved

Division 2. Fences, Walls And Obstructions

Sec. 84-360 Regulations

This division specifies regulation for all freestanding fences and walls within the city. These regulations are designed to promote safety, preserve property value, promote the general welfare of the city and to enhance the aesthetic quality of the community.

(Ord. No. 1133, § 1(7-500), 3-22-94)

Sec. 84-361 Applicability

Except as otherwise provided below, these regulations shall apply to all land within the city. These standards and administrative requirements shall be for the purpose of regulating freestanding walls and fences and shall become applicable as of the effective date of this code.

(1) Exemptions. These standards shall not apply to fences or walls that receive specific approval in the form of a specific use permit, planned development or approved variance. These exemptions do not imply any exception to the permitting or variance/appeals stated within this section.

(Ord. No. 1133, § 1(7-501), 3-22-94)

Sec. 84-362 General requirements/prohibitions for all fences and freestanding walls

(a) Obstruction prohibited. No fence, screen, freestanding wall or other visual barrier shall be so located or placed that it obstructs the vision of a motor vehicle driver approaching any street, alley or drive intersection. A visual barrier shall be deemed as any fence, wall, hedge, shrubbery, etc., higher than 36 inches above ground level at the property line, except single trees having single trunks, which are pruned to a height of seven feet above ground level. (For example see Appendix “A”.)

(b) Twenty-five-foot visibility triangle required. No fence, screen, wall or visual barrier shall be located or placed where it obstructs the vision of motor vehicle drivers approaching any street, intersection. At all street, intersections clear vision shall be maintained across the lot for a distance of 25 feet back from the property corner along both streets. (For example see Appendix “A”.)

(c) Barbed wire prohibited. Fences constructed of barbed wire and walls topped with broken glass or surfaced with any like material shall be prohibited; provided, however, a security fence not less than six feet in height may be topped with barbed wire that is located on property not zoned for residential purposes.

(d) Electrical fences prohibited. No fence shall be electrically charged in any form or fashion.

(e) Eight-foot maximum height. No fence in a residential district shall exceed eight feet in height above ground level at the fence line.

(f) Emergency ingress and egress required. In order to allow ingress/egress of emergency personnel and equipment, at least one gate or opening not less than three feet in width shall be required within each fence or wall that is adjacent to or running parallel with a public right-of-way, alley, drainage, utility or access easement. One such opening is required for each lot or in cases where the lot frontage is greater than 200 feet. An opening or gate shall be located not less than 200 feet to another opening on the same property.

(g) Property owners’ responsibility. The construction of a fence or wall on the property line shall not preclude the property owners’ responsibility to maintain and keep the area defined

between the extension of the property lines to the back of curb or edge of pavement free and clear of debris and high weeds. (For example, see Appendix “A”.)

(h) Public property. No fence, guy wire, brace or any post of such fence shall be constructed upon or caused to protrude over property that the city or the general public has dominion and control over, owns or has an easement over, under, around or through, except upon utility easements which are permitted to be fenced.

(i) Swimming pools. All swimming pools shall be fenced in addition to the requirements of the Uniform Building Code as amended and adopted by the City of Euless. The following specifications shall apply:

(1) Private pools (single-family residence).

a. The entire pool shall be enclosed.

b. Minimum height of six feet.

c. Wood construction or approved equal.

d. The fence shall be equipped with self-closing and self-latching gates.

(2) Public pools (apartments, hotels, motels, condominiums, townhouses, and mobile home parks).

a. The entire pool shall be enclosed.

b. Minimum height of four feet.

c. Wood or chainlink construction or approved equal.

d. The fence shall be equipped with self-closing and self-latching gates.

(Ord. No. 1133, § 1(7-502), 3-22-94)

Sec. 84-363 Fence and freestanding wall setback requirements

(a) Front yards.

(1) No fence or freestanding wall greater than 36 inches in height shall extend into the required front yard of property zoned for one or two-family dwellings on a lot less than one-half acre in size.

(2) Decorative fencing or security fencing may extend into the required front yard of all other property meeting the following requirements:

a. The property shall be zoned for one or two-family dwellings on a lot one-acre or more in size, or commercial, or multifamily.

b. Fences 36 inches or more above the finished grade of the lot shall not be more

than 25 percent solid, and not less than ten feet from the property line.

c. The primary fencing material shall be of wrought iron, exposed aggregate tilt wall, fired masonry, approved wood rail construction or other material approved by the city building official. (For example see Appendix “A”.)

(3) The primary fencing material shall be of wrought iron, exposed aggregate tilt wall, fired masonry, approved wood rail construction or other material approved by the city building official. (For example see Appendix “A”.)

(b) Side fence and freestanding wall setbacks. No fence or wall greater than 36 inches in height shall be located less than 15 feet from any side property line that is adjacent to a public street unless:

(1) The subject lot backs up to the rear property line of another lot, in which case no side fence setback is required. (For example see Appendix “A”.)

(2) The subject lot backs up to an access easement or alley right-of-way, in which case a ten-foot visibility triangle shall be required. (For example see Appendix “A”.)

(c) Rear fence and freestanding wall setbacks. Fences and walls meeting all of the above requirements may be erected on the rear property line except; however, lots whose rear property line abuts a public street on which one of the immediate adjacent lots maintains its required front yard, then no fence nor wall greater than 36 inches in height shall be located within 15 feet of the subject lots rear property line. (For example see Appendix “A”.)

(Ord. No. 1133, § 1(7-503), 3-22-94; Ord. No. 1519, § I, 1-22-02; Ord. No. 1537, § 1, 6-25-02)

Sec. 84-364 Administration

(a) Fence permit required. It shall be unlawful for any individual, partnership, company or corporation to erect or have erected a fence or any part of a fence of permanent construction in the city limits without first obtaining a fence permit from the office of building inspections.

(b) Application for permit. Any individual, partnership, company or corporation making application for a fence permit must sign an application for same showing the following information:

(1) Applicant’s name, address, and in addition, if the applicant represents a company or corporation, the name and address of the supervisor or foreman of said company or corporation and the name of its president.

(2) Name of owner of property.

(3) Local address where fence is proposed to be erected.

(4) Type of fence construction.

(5) Height of fence.

(6) Plat showing lot on which the fence is proposed to be erected, and the location of adjoining or adjacent lots showing existing structures and fences. The proposed fence shall be delineated by a dark heavy line.

(c) Permit fee. A permit fee shall be paid prior to the issuance of any fence permit. The fee charged shall be in accordance with city schedule of fees.

(Ord. No. 1133, § 1(7-504), 3-22-94)

Sec. 84-365 Variances and appeals

(a) Variances. The city council may appoint a board consisting of at least five members, who, after review of the application for variance or appeal by the city attorney for determination as to form thereof and that same is within the purview of the authority of such board, shall hold a public hearing in which written notification has been given to all property owners within 200 feet of the proposed variance, may grant a variance to this chapter where, in its opinion, the board finds the following requirements have been met:

(1) Granting the variance will not adversely affect the interest of the City of Euless;

(2) Granting the variance will not adversely affect the neighboring property owners;

(3) There is, in the boards opinion, a hardship on the land, and that hardship is not a personal or self-created hardship.

(b) Application for variance. Application for a variance shall be made by submitting the following to the city planning department:

(1) Letter requesting to be heard by the board described in subsection (a) above for a variance and a statement of the nature of variance being requested.

(2) An application fee prescribed in the city schedule of fees shall be paid prior to any public notification or being placed on the boards agenda.

(c) Appeals. The board described in subsection (a) above shall have the authority to hear and decide appeals where it is alleged there is error on any order, requirement, decision or determination made by the building inspector in the enforcement of this chapter.

Such appeals shall be made in the manner described above in subsection (b)(1) of this section. No application fee is required.

(Ord. No. 1133, § 1(7-505), 3-22-94)

Secs. 84-366–84-379 Reserved

ARTICLE VIII. SITE PLAN REQUIREMENTS

Sec. 84-380 Purpose

This section establishes a site plan review process for proposed development. The purpose of the review is to ensure efficient and safe land development, harmonious use of the land, compliance with appropriate design standards, safe and efficient vehicular and pedestrian circulation, parking and loading, and adequate water supply, drainage and stormwater management, sanitary facilities, and other utilities and services.

(Ord. No. 1133, § 1(8-100), 3-22-94)

Sec. 84-381 Applicability

No development or construction of any structure or occupancy of any land shall commence, unless a site plan is first submitted to and receives a recommendation from the planning and zoning commission and approval by the city council. It is suggested that the site plan be submitted and approved prior to the land plan as in article IX. No building or site shall be occupied unless all construction, development and operations conforms to the plan as approved by the city council. Failure to comply with city council's approved plan may result in nonissuance or revocation of an occupancy permit.

(1) Exemptions. Site plan approval by city council shall not be required for the following:

a. Any property zoned for one- or two-family dwelling purposes or any accessory uses incidental thereto.

b. Property zoned planned development where development is to occur in accordance with the approved detailed site plan.

(2) Waiver of requirements. The planning and zoning commission and city council may, at the request of the applicant, waive any of the various site plan detail requirements hereinafter set forth.

(Ord. No. 1133, § 1(8-200), 3-22-94)

Sec. 84-382 Site plan details

The site plan shall contain sufficient information relative to site design considerations, including but not limited to the following:

(1) Structure locations along with building wall elevations.

(2) On-site and off-site circulation.

(3) Parking.

(4) Grading.

(5) Landscaping.

(6) Placement of utilities.

(7) Screening.

(8) Location of present and proposed streets, drainage and utilities.

(9) Location, size of existing and proposed detached signs.

Provision of the above items shall conform to the principles and standards of this chapter. To ensure the submission of adequate site plan information, the administrator is hereby empowered to maintain and distribute a list of specific requirements for site plan review applications. Upon periodic review, the administrator shall have the authority to update such requirements for site plan details.

(Ord. No. 1133, § 1(8-300), 3-22-94)

Sec. 84-383 Supplemental requirements

Under special instances, the planning and zoning commission and/or city council may require other information and data for specific site plans.

(Ord. No. 1133, § 1(8-400), 3-22-94)

Sec. 84-384 Principles and standards for site plan review

The following criteria have been set forth as a guide for evaluating the adequacy of proposed development in the City of Euless. The planning and zoning commission and city council shall review the site plan for compliance with all applicable ordinances and the comprehensive plan; for harmony with surrounding uses and the overall plan for development of the City of Euless; for the promotion of the health, safety, order, efficiency and economy of the city; and for the maintenance of property values and the general welfare.

Based upon its review, the commission and council may approve, conditionally approve, request modifications or deny approval of the site plan. Evaluation of the site plan details shall be based on the following:

(1) The site plan's compliance with all provisions of the zoning ordinance and other ordinances of the city including but not limited to off-street parking and loading, lighting, open space and the generation of objectionable smoke, fumes, noise, odors, dust, glare, vibration or heat.

(2) The environmental impact of the development relating to the preservation of existing natural resources on the site and the impact on the natural resources of the surrounding properties and neighborhood.

(3) The relationship of the development to adjacent uses in terms of harmonious design, setbacks, maintenance of property values and negative impacts.

(4) The provision of a safe and efficient vehicular and pedestrian circulation system.

(5) The design and location of off-street parking and loading facilities to ensure that all such spaces are usable and are safely and conveniently arranged.

(6) The sufficient width and suitable grade and location of streets designed to accommodate prospective traffic and to provide access for firefighting and emergency equipment to buildings.

(7) The coordination of streets so as to compose a convenient system consistent with the thoroughfare plan of the city.

(8) The use of landscaping and screening (1) to provide adequate buffers to shield lights, noise, movement or activities from adjacent properties when necessary, and (2) to complement the design and location of buildings and be integrated into the overall site design.

(9) Exterior lighting to ensure safe movement and for security purposes, which shall be arranged so as to minimize glare and reflection on adjacent properties.

(10) The location, size and configuration of open space areas to ensure that such areas are suitable for intended recreation and conservation uses.

(11) Protection and conservation of soils from erosion by wind or water or from excavation or grading.

(12) Protection and conservation of water courses and areas subject to flooding.

(13) The adequacy of water, drainage, sewerage facilities, garbage disposal and other utilities necessary for essential services to residents and occupants.

(Ord. No. 1133, § 1(8-500), 3-22-94)

Sec. 84-385 Approval process

The decision to approve or deny a site plan shall be made by the city council after receiving a recommendation from the planning and zoning commission. A majority denial by the planning and zoning commission may be appealed to the city council. The appeal shall be filed in writing with the administrator not more than seven days after the date of the action taken by the planning and zoning commission. The appeal shall state all reasons for dissatisfaction with the action of the planning and zoning commission. If the city council, by majority vote, deems the appeal to be without merit, it may refuse to accept the appeal, and the action of the planning and zoning commission shall stand.

If the city council, in a public hearing and by majority vote, accepts the appeal, the decision by the city council to approve, conditionally approve, request modifications, or deny a site plan shall be final and binding.

(Ord. No. 1133, § 1(8-600), 3-22-94)

Sec. 84-386 Effect of site plan approval

No property requiring site plan approval shall be developed except in accordance with the site approved by city council.

(1) Expiration of approved site plan. If development of a lot with an approved site plan has not commenced within 12 months of the date of final approval of the site plan, the site plan shall be deemed to have expired, and a review and reapproval of the approved site plan by the planning and zoning commission and city council shall be required before construction commences on the project. Said review and approval shall be evaluated according to the standards of section 84-384, taking into account changes in the surroundings and in applicable ordinances which have occurred subsequent to the prior approval of the site plan.

(2) Minor adjustments to site plan. It is recognized that final architectural and engineering design may necessitate minor changes in the approved site plan. In such cases, the administrator shall have the authority to approve minor modifications of an approved site plan, provided that such modifications do not materially change the circulation and building location on the site.

(Ord. No. 1133, § 1(8-700), 3-22-94)

Secs. 84-387–84-399Reserved.

ARTICLE IX. PLATTING AND SUBDIVISION OF LAND

Sec. 84-400 Purpose and intent

The purpose of regulating platting of subdivision is to provide a tool to fashion orderly development in defined ways. Using prescribed methods, the use of private land is regulated in the public interest. The intent of this article is to ensure that adequate records in land title are provided for and to provide for safe, orderly, and adequate design and construction of new streets, water, sewer and drainage facilities.

(Ord. No. 1133, § 1(9-100), 3-22-94)

Sec. 84-401 Goals

In order to achieve orderly, efficient and environmentally sound subdivision of land, the city must be provided with appropriate guidelines and development management mechanisms. This article, in conjunction with the other land use control tools as now or hereafter may be adopted by the city, provide those guidelines and mechanisms. With this in mind, it is the intent of these regulations to further the following goals:

(1) Protect and provide for the public health, safety, and general welfare of the community.

(2) Guide the future growth and development of the community, in accordance with the

master plans of the city, ensuring that the comprehensive and coordinated plans effected by the various land use controls of the city are not negated by disorganized, unplanned and uncoordinated development.

(3) Guide and phase any and all developments to maximize the utilization of existing and proposed public facilities and improvements to ensure that these facilities will have sufficient capacity to serve the propose subdivision.

(4) Guide public and private policy and action in order to provide adequate and efficient transportation, public utilities, sewerage, schools, parks, playgrounds, recreation, and other public requirements and facilities.

(5) Establish reasonable standards of design and procedures for subdivision of land in order to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.

(6) Preserve the natural beauty and topography of the municipality and to ensure appropriate development with regard to these natural features.

(7) Provide for open spaces through the most efficient design and layout of the land, including the acquisition and dedication of park lands.

(Ord. No. 1133, § 1(9-101), 3-22-94)

Sec. 84-402 Applicability

It is unlawful to subdivide or do significant construction on any land, parcel or real property that does not comply with the minimum requirements stated herein. Approval or issuance of any permit shall not be construed as an approval of a violation of the provision of this document.

(Ord. No. 1133, § 1(9-102), 3-22-94)

Sec. 84-403 Jurisdiction

These regulations apply to all subdivisions of land, located within the corporate limits of the city and within the city's extraterritorial jurisdiction, as provided by law, and to all additions of land within the corporate limits of the city, except as expressly stated herein.

(1) The following types of subdivision do not require approval by the city:

a. The division of land into two or more parts where all parts are larger than five acres and zoned single-family detached dwelling district or located within the extraterritorial jurisdiction of the city.

b. The division of land into two or more parts where all parts are larger than 20 acres regardless of zoning or location.

c. The creation of a remainder of a tract caused by the platting of a portion of the tract, provided the remainder is larger than 20 acres, or the remainder is larger

than five acres and zoned single-family detached dwelling district or is located within the extraterritorial jurisdiction of the city.

d. The division of a tract or parcel for purposes of dedicating right-of-way easements, park land, or other public facilities or easements.

e. The creation of a leasehold for agricultural use of the subject property, provided that the use does not involve the construction of a building(s) to be used as a residence or for any purpose not directly related to agricultural use of the land or crops or livestock raised thereon.

f. The division of property through inheritance, the probate of an estate, or by a court of law.

(2) The city shall not extend utilities, provide access to public roads or authorize any building construction for the development of property which has not received final plat approval, except as otherwise provided by this chapter.

(3) A written request may be directed to the commission for information concerning whether a plat is required under these regulations, in accordance with Section 212.0115, as amended, of the Texas Local Government Code.

(4) The exclusion of such activities from these regulations does not waive any jurisdiction the city now exercises or may exercise over such matters.

(5) The city shall not extend utilities, provide access to public roads or authorize any building construction for the development of any property which has not received final plat approval, except as otherwise provided by this chapter.

(6) Except as provided above and lots of record established prior to the effective date of this chapter, no land shall be sold, leased, or transferred until the property owner has obtained approval of a final plat, or conveyance plat from the administrator, the commission or the council as required by these regulations.

(7) The city shall withhold all public improvements and utilities, including the maintenance of streets and the provision of sewage facilities and water service, from all tracts, lots or additions, the platting of which has not been officially approved by the administrator, the commission, or city council and for which a certificate of compliance has not been issued pursuant to section 84-410(g).

(8) Except as provided in sections 84-411(c)(5) and 84-474, no building construction or modifications shall commence nor shall any building or property be used or occupied until such property has received final plat approval and is in substantial conformity with the provisions of these subdivision regulations, and no private improvements shall take place or be commenced except in conformity with these regulations.

(Ord. No. 1133, § 1(9-103), 3-22-94)

Sec. 84-404 Procedures

All applications for platting of property shall be subject to the procedures for platting as outlined within this document.

(1) Division of property. Hereafter, every owner of any lot, tract, or parcel of land who may make or cause a subdivision of land into two or more pieces shall cause a plat to be made thereof, which shall accurately describe all of said lot, tract, or parcel of land as required by this article. Unless specifically authorized by this document, no plat may be recorded, no lot may be sold, and no transfer of title to any part of such lot, tract, or parcel of land shall be made until a plat, accurately describing the property to be conveyed, is approved in accordance with these provisions and filed in the plat records of the county.

(2) Platting required for building permits. Platting of property prior to the issuance of a building permit shall be required under the following conditions:

a. New construction is proposed on a vacant parcel of land; or

b. New construction is proposed for an existing structure where the total cost of the new construction exceeds $5,000.00. This condition may be waived, at the discretion of the administrator, if unusual conditions are documented by the applicant. Unusual circumstances are as defined in article III.

(Ord. No. 1133, § 1(9-200), 3-22-94)

Sec. 84-405 General

(a) Classification of subdivisions and additions. Before any land is platted, the property owner shall apply for and secure approval of the proposed subdivision plat or addition plat in accordance with the following procedures, unless otherwise provided by these regulations. Subdivisions are classified as major or minor depending on the number of lots proposed and the extent of public improvements required.

(1) Minor subdivisions shall create no more than four lots and do not require the creation of a new street or the extension of municipal facilities. Minor subdivisions may be approved for residential and nonresidential properties. Conveyance plats may be approved under the procedure for minor subdivisions provided that they establish no more than four lots and do not create a new street or extend municipal facilities. Minor plat approval requires the submission of a final plat as described under section 84-410, or the submission of a conveyance plat as described under section 84-411. The administrator may approve and sign minor plats on behalf of the city or refer them to the planning and zoning commission for their action.

(2) Major subdivisions involve the creation of new streets, the extension of municipal facilities or the creation of more than four lots. Major subdivisions may be approved for residential and nonresidential properties. Conveyance plats are considered major subdivisions if they create more than four lots or involve the creation of new streets or the extension of municipal facilities. The procedure for approving a major plat typically requires three steps: land plan, preliminary plat, and final plat. Land plans

are approved by the planning and zoning commission. The land plan requirement may be omitted if the subdivision creates no more than one new street and the administrator determines that sufficient information exists to begin preparation of a preliminary plat. Land plans for nonresidential property may be omitted where the administrator determines that a circulation plan, site plan, etc., for the property contains sufficient information to provide for the proper coordination of the development.

Except as otherwise permitted, the planning and zoning commission's approval of a preliminary plat is required prior to the construction of public improvements to the property. The preliminary plat and the associated engineering plans for the property may be amended during construction, with only major changes requiring reapproval by the planning and zoning commission.

Upon completion of the required public improvements, or the provision of a subdivision improvement agreement described under article XI, the owner may submit a corrected final plat and construction "as builts" for the subdivision. Lots may be sold and building permits obtained after approval of the plat by the planning and zoning commission, and filing of the signed plat. The preliminary plat process may be altered if the owner enters into a subdivision improvement agreement with the city and provides engineering plans and sufficient surety for all proposed public improvements.

(b) Submission requirements; commission approval. For the purpose of these regulations, the date on which the application is first filed shall constitute the official submission date for the plat, after which the statutory period required for approval or disapproval of the plat shall commence to run. The city shall publish at least 30 days prior to the beginning of each year a calendar of official submittal dates. This calendar shall specify two submittal dates for each month. All applications delivered to the city on a date other than a scheduled date shall be dated received on the next official submittal date.

(c) Submittal requirements; staff approval only. Minor plats may be submitted at any time during normal office hours. The plat shall be approved by the administrator or placed on an agenda of the planning and zoning commission for consideration no later than 30 days of its receipt.

(d) Approval criteria. Applications for plat approval shall be evaluated for compliance with these regulations and requirements contained in the city's standard specifications manual and design manuals, which are incorporated herein by reference, and with any other criteria, policies, rules and plans which are referenced elsewhere in these regulations.

(e) Statutory compliance procedure. The planning and zoning commission shall approve or disapprove the application, or identify requirements which must be satisfied prior to approval of such application, within 30 days of official submittal. If the commission fails to approve or disapprove (disapproval includes the identification of requirements to be satisfied prior to approval) an application within 30 days of the official submission date, the application shall be deemed approved. However, the identification of requirements by the commission, (at a scheduled meeting of the commission prior to 30 days following the official submission date) which remain to be satisfied prior to plat approval, shall constitute disapproval of the application

for purposes of statutory compliance only. Unless the commission unconditionally disapproves the plat application within such period, the city shall continue to process the application for compliance with these regulations.

(f) Fees, application forms and procedures. City council shall establish a schedule of fees as required to recoup costs related to the administration of this chapter. The administrator may establish procedures, forms and standards with regard to the content, format and number of copies of information constituting an application for a land plan, preliminary plat, conveyance plat, replat, vacation of plat or final plat.

(Ord. No. 1133, § 1(9-300), 3-22-94)

Sec. 84-406 Land plan

(a) Purpose. The purpose of the land plan is to review and approve a general plan for the development of property including the layout of streets, lots, open space, sites for public facilities and utilities.

(b) Applicability. A land plan covering the entire holdings shall be required as a condition precedent to approval of any application for a major plat, except where the administrator determines:

(1) The subdivision will result in no more than one new street and sufficient information exists to begin preparation of a preliminary plat; or

(2) A circulation plan, preliminary site plan or final site plan for the property provides sufficient information for the preparation of a preliminary plat.

(c) Phasing of development. The commission may permit a land plan for a major plat to be divided into two or more phases, as indicated on the land plan, and may approve certain conditions as it deems necessary to assure the orderly development of the platted land.

(d) Application procedure and requirements.

(1) Pre-application conference. Before preparing the land plan, the applicant shall schedule an appointment and meet with the administrator to discuss the procedures for approval of the plat and the requirements as to general layout of streets and or reservations of land, street improvements, drainage, sewerage, fire protection, and similar matters, as well as the availability of existing services.

(2) General application requirements. Prior to platting of the land and after meeting with the administrator, the property owner shall file an application for approval of a land plan with the commission. The application and land plan shall meet the following minimum requirements:

a. The application shall include all contiguous holdings of the property owner with an indication of the portion which is proposed to be developed or offered, sold or leased, accompanied by an affidavit of ownership, which includes an address and telephone number of an agent who shall be authorized to receive

all notices required by these regulations.

b. The land plan shall be drawn to scale of one inch equals 100 feet or larger.

c. The lower right hand corner of the land plan shall contain a title block clearly showing the proposed name of the subdivision or addition, the name and address of the owner and the engineer or surveyor responsible for the designer survey, the scale of the drawing, the date the drawing was prepared, and the location of the tract according to the abstract and survey records of Tarrant County, Texas.

d. The land plan shall clearly show the limits of the tract. True north, scale and date, shall be clearly indicted and shall be to the top or left of the land plan.

e. The land plan shall show the names of adjacent subdivisions or additions or the name of record owners of adjoining parcels of unplatted land.

f. The land plan shall contain the existing zoning on adjoining land, the location, width, and names of all existing or platted streets or other public ways within or adjacent to the tract, existing permanent buildings, railroad rights-of-way, and topography with existing drainage channels or creeks, and other important features such as political subdivision or corporate limits and school district boundaries.

g. The land plan shall show the layout, names and width of proposed thoroughfares, collector streets, and intersections, and shall show a general configuration of proposed streets and alleys.

h. The land plan shall show a general arrangement of land uses, including but not limited to park and school sites, municipal facilities, private open space, flood plains and drainage ways, phasing plan, and proposed nonresidential and residential uses and densities.

i. The land plan shall indicate layout, numbers, and approximate dimensions of proposed lots and all building lines.

j. The land plan shall indicate existing contours of the tract in intervals of two feet or less, referred to sea level datum.

k. The land plan shall indicate existing sewers, water mains, culverts, or other underground structures within the parcel and immediately adjacent thereto with pipe sizes and locations indicated.

l. The land plan shall indicate proposed water, sanitary sewer and storm sewer pipe lines with culverts, bridges, and other appurtenances or structures shown.

m. The land plan shall indicate stormwater retention or detention basins as required.

(3) Standards for approval. A copy of the proposed land plan shall be forwarded to the city council for their information and use. No land plan shall be approved by the commission unless it conforms to the master plans of the city and the development ordinances of the city.

(4) Approval procedure. After review of the land plan, the report and recommendations of the administrator and the exhibits submitted at a scheduled meeting, the commission shall approve, conditionally approve or disapprove the land plan. One copy of the proposed land plan shall be made available to the owner with the date of approval or disapproval and the reasons therefore accompanying the copy. If the commission disapproves the proposed land plan, the applicant may execute an appeal in the manner prescribed in section 84-415.

(5) Effect of approval. Approval of the land plan in conformance to sections 84-406(d)(3) and 84-406(d)(5) by the commission constitutes authorization by the city for the property owner to submit application for approval of a preliminary plat subject to the approved land plan and compliance with any conditions attached by the commission.

(6) Lapse of land plan approval. The approval of any phase or phases of a land plan, which is intended for development, shall automatically expire unless such phase or phases have been submitted and approved by the commission as a preliminary plat within one year of the date of approval of such land plan (see section 84-409).

(Ord. No. 1133, § 1(9-400), 3-22-94)

Sec. 84-407 Preliminary plat

(a) Purpose. The purpose of the preliminary plat is to allow the commission and/or the city council to evaluate the proposed plat for conformity with requirements and conditions identified at the time of land plan approval and to evaluate construction plans for public improvements or to provide adequate security for construction of the same.

(b) Applicability. A preliminary plat is required for all major subdivisions prior to the construction of public improvements.

(c) Application procedure and requirements. On forms approved by the city, the applicant shall file for approval of a preliminary plat, which conforms substantially with the land plan or alternate plan as permitted under section 84-406(b) by the applicant. The plat shall be prepared by or under the supervision of a registered public surveyor in the state and shall bear his seal, signature and date on each sheet. The payment of all applicable fees shall be required at the time of submission.

(1) General application requirement. Copies of the proposed preliminary plat shall be at a scale of one inch equals 100 feet or larger and in a form substantially as follows:

a. The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract.

b. True bearings and distances to the nearest established street lines and to two official city monuments (see section 84-441), which shall be accurately described on the plat.

c. Accurate ties to the abstract and survey corners as required by state surveying law and the amount of acreage in each tract shall be shown.

d. The exact layout including:

    1. Street names.

    2. The length of all arcs, radii, internal angles, points of curvature, length, and bearings of the tangents.

    3. All easements for rights-of-way provided for public services, utilities and drainage.

    4. All lot numbers and lines with accurate dimensions in feet and hundredths of feet and width bearings and angles to street and alley lines.

e. The accurate location, material, and size of all monuments approved by the city engineer. Horizontal and vertical control data shall be established for a minimum of two corners of the subdivision or addition.

f. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon, and of all property that may be reserved by deed covenant for the common use of the property owners in the subdivision or addition.

g. Building setback lines.

h. Special restrictions including, but not limited to, drainage and floodway, fire lanes, screening.

i. Proposed name of the subdivision or addition.

j. Name and address of the property owner.

k. North point, scale, and date.

l. Certification by a registered public surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and that their location, size, and material description are correctly shown, and that the survey correctly shows the location of all visible easements and rights-of-way and all rights-of-way, easements and other matters of record affecting the property being platted.

m. Boundary survey along with supporting documentation such as closure and

area calculations.

n. Additional documents necessary for dedication or conveyance of easements or rights-of-way, as required by the city. The city may, in some instances, require the conveyance of fee simple title for certain rights-of-way.

o. Entry easements to allow city inspectors to enter the property being platted for the purpose of inspecting the construction of the public improvements.

p. Avigation easements as necessary as required by the city.

(2) Standards for approval. A copy of the proposed preliminary plat shall be forwarded to the city council for their information and use. No preliminary plat shall be approved by the commission unless the following standards have been met:

a. The plat substantially conforms with the approved land plan or other study as provided in section 84-406(b).

b. A preliminary water and waste water lay out and a preliminary storm drainage lay out have been reviewed by and are acceptable to the city engineer.

c. Provision for note on the preliminary plat stating that installation and dedication of public improvements will be made prior to the submission of final plat.

d. The plat conforms to applicable zoning and other regulations.

e. The plat meets all other requirements of these regulations.

(3) Timing of public improvements.

a. The commission may require that all public improvements be installed, offered for dedication and accepted by the city prior to the signing of the final plat by the chairman of the commission.

At the request of the applicant, the commission may permit or require the deferral of the construction of public improvements if in its judgment, deferring the construction would not result in any harm to the public, or offer significant advantage in coordinating the site's development with adjacent properties and off-site public improvements. Any required public improvement(s) approved for deferred construction must be provided for as required in article XI prior to the approval of the final plat (see section 84-473).

b. If the commission does not require that all public improvements be installed, offered for dedication and accepted by the city prior to signing of the final plat by the chairman, it shall require that the applicant execute an improvement agreement and provide security for the agreement as provided in section 84-470(b).

(4) Approval procedure. After review of the preliminary plat, the report and

recommendations of the administrator concerning the land plan and the application, the report and recommendation of the city engineer on the construction plans, and any exhibits submitted at a public meeting, the applicant shall be advised of any required changes and/or additions. The commission shall approve or disapprove the preliminary plat. One copy of the proposed preliminary plat shall be returned to the owner with the date of approval, conditional approval or disapproval and the reasons therefore accompanying the plat. If the commission disapproves the proposed preliminary plat, the applicant may execute an appeal in the manner prescribed in section 84-415.

(5) Effect of approval. Approval of a preliminary plat by the commission constitutes authorization for the property owner's professional engineer to begin preparation of construction plans for public improvements. Approval of a preliminary plat also authorizes the property owner, upon fulfillment of all requirements and conditions of approval, to submit for approval an application for final plat approval in accordance with section 84-410. Upon release of the construction plans, the city engineer shall issue a certificate indicating the construction plans have been released and construction of the improvement is thereafter authorized. Additional certificates may be issued by the city engineer authorizing the construction of private utilities on a phased schedule. The certificate shall read as follows:

> "The preliminary plat for (insert name of the subdivision or addition) as approved by the City of Euless Planning and Zoning Commission on (insert date of approval) is authorized for the construction of public improvements as approved by the City Engineer. A final plat shall be approved by the City upon the completion of all public improvements to the satisfaction of the City Engineer or the provision of a subdivision improvement agreement under the terms of the subdivision ordinance and submission of a final plat in compliance with Section 84-410 [Final Subdivision Plat] of the Unified Development Code of the City of Euless."

(6) Lapse of preliminary plat approval. The approval of a preliminary plat shall be effective for a period of two years from the date that the preliminary plat is approved by the commission or the council, at the end of which time the applicant must have submitted and received approval for a final plat. If a final plat is not submitted and approved within two years, the preliminary plat approval shall be null and void, and the applicant shall be required to submit a new plat for land plan review subject to the then existing zoning restrictions and subdivision regulations (see section 84-409 concerning extensions and reinstatement of approval).

(d) Construction plan procedure and requirements.

(1) General application requirement. Construction plans shall be prepared by or under the supervision of a professional engineer registered in the state as required by state law governing such professions. Plans submitted for review by the city shall be dated and bear the responsible engineer's name, serial number and the designation of "engineer," "professional engineer," or "P.E." and an appropriate stamp or statement near the engineer's identification, stating that the documents are for preliminary review and are not intended for construction. Final plans acceptable to

the city shall bear the seal and signature of the engineer and the date signed on all sheets of the plans. Public works construction in streets, alleys or easements which will be maintained by the city shall be designed by a professional engineer registered in the state.

(2) Construction plan review procedure. Copies of the construction plans, and the required number of copies of the plat, shall be submitted to the city engineer for final approval. The plans shall contain all necessary information for construction of the project, including screening walls, and other special features. All materials specified shall conform to the standard specifications and standard details of the city. Each sheet of the plans shall contain a title block including space for the notation of revisions. This space is to be completed with each revision to the plan sheet and shall clearly note the nature of the revision and the date the revision was made. The construction plans may be released subject to concurrence by the city engineer that the plans meet the minimum requirements of the city upon payment of inspection fees, escrows due (if any) and pro-rata charges due (if any). Upon such release, each contractor shall maintain one set of plans, stamped for city release, on the project site at all times during construction (see sections 84-471 and 84-472).

(3) Failure to commence construction. If construction has not commenced within one year after approval of the plans, resubmittal of plans may be required by the city engineer for meeting current standards and engineering requirements. "Construction" shall mean installation of city maintained public improvements.

(Ord. No. 1133, § 1(9-500), 3-22-94; Ord. No. 1539, §§ 1-3, 6-25-02)

Sec. 84-408 Amendments to land plan or preliminary plat

(a) At any time following the approval of a land plan or preliminary plat, and before the lapse of such approval, a property owner may request an amendment. The rerouting of streets, addition or deletion of alleys, or addition or deletion of more than ten percent of the approved number of lots shall be considered a major amendment. The adjustment of street and alley alignments, lengths, and paving details; the addition or deletion of lots within ten percent of the approved number and the adjustment of lot lines shall be considered minor amendments.

(b) The administrator may approve a minor amendment to the commission under the terms of section 84-405. Major amendments may be approved by the commission at a public meeting in accordance with the same requirements for the approval of a land plan or preliminary plat.

(c) The commission shall approve, conditionally approve or disapprove any proposed major amendment and may make any modifications in the terms and conditions of preliminary plat approval reasonably related to the proposed amendment. If the applicant is unwilling to accept the proposed amendment under the terms and conditions required by the commission, the applicant may withdraw the proposed major amendment or appeal the action of the commission to the city council in accordance with section 84-415.

(Ord. No. 1133, § 1(9-600), 3-22-94)

Sec. 84-409 Extension and reinstatement procedure

(a) Sixty days prior to or following the lapse of approval for a land plan or preliminary plat, as provided in these regulations, the property owner may petition the commission to extend or reinstate the approval. Such petition shall be considered at a public meeting of the commission.

(b) In determining whether to grant such request, the commission shall take into account the reasons for lapse, the ability of the property owner to comply with any conditions attached to the original approval and the extent to which newly adopted subdivision regulations shall apply to the plat or land plan. The commission shall extend or reinstate the plat or land plan, or deny the request, in which instance the property owner must submit a new application for approval.

(c) The commission may extend or reinstate the approval subject to additional conditions based upon newly enacted regulations or such as are necessary to assure compliance with the original conditions of approval. The commission may also specify a shorter time for lapse of the extended or reinstated plat or land plan than is applicable to original approvals.

(Ord. No. 1133, § 1(9-700), 3-22-94)

Sec. 84-410 Final subdivision plat

(a) Purpose. The purpose of a final plat is to record the subdivision of property including the accurate description of blocks, rights-of-way, easements, building lines and street names.

(b) Applicability. A final plat shall be required for subdivisions of property and the recording of single lots in accordance with section 84-403.

(c) Application procedure and requirements. A final plat for minor subdivisions may be approved and signed by the administrator. A final plat for a major subdivision shall require approval by the planning and zoning commission. Final plats shall comply to the preliminary plat where applicable. The application shall be accompanied by the following:

(1) Copies of the proposed final plat bearing all information specified in section 84-407(c)(1) the following language:

"Notice: Selling a portion of this addition by metes and bounds is a violation of City ordinance and state law and is subject to fines and withholding of utilities and building permits."

(2) Formal irrevocable offers of dedication to the public of all streets, local government uses, utilities, parks, and easements, in a form approved by the city. The plat shall be marked with a notation indicating the formal offers of dedication.

(3) The improvement agreement and security, if required, in a form satisfactory to the city and in an amount established by the commission upon recommendation of the city engineer and shall include a provision that the property owner shall comply with all the terms of the final plat approval as determined by the commission.

(4) A recording fee in an amount as set by the county clerk.

(5) As-built construction plans, where applicable.

(d) Standards for approval. A final plat shall be approved by the administrator, the commission or the council provided all of the following standards have been met:

(1) The plat substantially conforms to the preliminary plat.

(2) Required public improvements have been constructed and accepted or an improvement agreement has been accepted by the city providing for the subsequent completion of improvements.

(3) The plat conforms to applicable zoning and other regulations.

(4) Provision has been made for adequate public facilities under the terms of this chapter.

(5) The plat meets all other requirements of this chapter.

(e) Approval procedure. After review of the final plat, the administrator shall place the final plat for consideration on the agenda of a public meeting of the commission. Minor plats may be approved by the administrator or referred to the commission in accordance with section 84-26. In the event of disapproval, reasons for disapproval shall be stated. One copy of the final subdivision plat shall be returned to the applicant with the date of approval, conditional approval or disapproval noted on the final plat, and, if the final plat is disapproved, the reasons for disapproval accompanying the final plat.

(f) Appeals. If the commission disapproves the final plat, the applicant may appeal to the council in the manner prescribed in section 84-415.

(g) Certificate of compliance. Upon final approval of a final plat required by these regulations, the commission shall issue to the person applying for approval a certificate stating that the final plat has been approved by the commission and/or the city council. For purposes of this section, final approval shall not occur until all conditions of approval have been met.

(h) City signatures and recording of final plat.

(1) When an improvement agreement and security are required, the chairman of the commission, or the mayor, if approval has been granted by the council, and the administrator or city engineer shall endorse approval on the final plat after the agreement and security have been approved by the commission, and all the conditions pertaining to the final plat have been satisfied.

(2) When installation of public improvements is required prior to recordation of the final plat, the chairman of the commission or the mayor, if the plat has been approved by the council, and administrator or city engineer shall endorse approval on the final plat after all conditions of approval have been satisfied and all public improvements satisfactorily completed. There shall be written evidence that the required public improvements have been installed in a manner satisfactory to the city as shown by a certificate signed by the city engineer stating that the necessary dedication of public

lands and installation of public improvements has been accomplished (see section 84-472).

(3) It shall be the responsibility of the administrator to file the final plat with the county clerk. Simultaneously with the filing of the final plat, the administrator shall record such other agreements of dedication and legal documents as shall be required to be recorded. One copy of the recorded final plat, with street addresses assigned, will be forwarded to the property owner by the administrator.

(Ord. No. 1133, § 1(9-800), 3-22-94)

Sec. 84-411 Conveyance plats

(a) Purpose. A conveyance plat may be used solely for the purpose of subdividing land and the recording of same, or recording a single existing lot or parcel created by other means. A conveyance plat may be used to convey the property or interests therein; however, a conveyance plat does not constitute approval for development of the property. A conveyance plat is an interim step in the subdivision and development of land.

(b) Applicability. A conveyance plat may be used in lieu of a final plat to record the subdivision of property provided that no single lot created is five acres or smaller. A conveyance plat may be used in lieu of a final plat to record the remainder of a tract created by the final platting of a portion of the property provided that the remainder is larger than five acres and is not intended for immediate development.

(c) Application procedure and requirements.

(1) Application requirements. The property owner shall submit an application, together with other supporting documents and fees, to the administrator for review and subsequent placement on the commissions agenda. Conveyance plats which qualify as minor plats shall be reviewed and acted upon by the administrator in accordance with sections 84-405 and 84-410. A conveyance plat and associated documents shall include all information listed below where applicable:

a. The boundary lines with accurate distances and bearings and the exact location and width of all existing or recorded streets intersecting the boundary of the tract.

b. True bearings and distances to the nearest established street lines or official monuments, which shall be accurately described on the plat; municipal, township, county, or section lines accurately tied to the lines of the subdivision or addition by distances and bearings.

c. An accurate location of the subdivision or addition with reference to the abstract and survey records of the county.

d. The exact layout including:

1. Street names (if known or proposed).

2. The length of all arcs, radii, internal angles, points of curvature, length, and bearings of the tangents.

3. Easements and rights-of-way (see section 84-411(c)(2)) specifying their provision by dedication or reservation.

4. All lot numbers and lines with accurate dimensions in feet and hundredths of feet and with bearings and angles to street and alley lines.

e. The accurate location, material, and approximate size of all monuments and corners, as provided in section 84-407(c)(1).

f. The accurate outline of all property which is offered for dedication for public use with the purpose indicated thereon.

g. Proposed name of the subdivision or addition.

h. Name and address of the property owner.

i. North point, scale, and date.

j. Certification by a registered public surveyor to the effect that the plat represents a survey made by him and that all the monuments shown thereon actually exist, and their location, size, and material description are correctly shown.

k. Additional certificates to properly dedicate easements or rights-of-way as may be necessary.

l. Boundary survey closure and area calculations.

m. Construction plans shall not be required except where street, utility and drainage improvements are proposed by the owner. Construction plans, easements, and dedications as appropriate shall be submitted concurrent with the conveyance plat or any subsequent replat. The construction plans, if any, shall be prepared by or under the supervision of a professional engineer registered in the state and shall bear his seal on each sheet.

n. A certificate of ownership and dedication of all street and alley rights-of-way to public use forever, signed and acknowledged before a notary public by the owner and lien holder of the land along with complete and accurate description of the land subdivided and the streets dedicated where applicable, except as provided in section 84-411(c)(2)c.

o. All conveyance plats must be titled “conveyance plat” and carry the following wording:

“A conveyance plat is a record of property approved by the City for the purpose

of sale or conveyance in its entirety or interests thereon defined. No building permit shall be issued nor permanent public utility service provided until a final plat is approved, filed of record and public improvements accepted in accordance with the provisions of the Unified Development Code of the City of Euless. Selling a portion of this property by metes and bounds, except as shown on an approved, filed and accepted conveyance plat, final plat or replat is a violation of the City Ordinance and State Law."

(2) Standard for approval.

a. All tracts, parcels, lots or sites created by a conveyance plat shall have frontage and access to an existing or proposed public street defined on the major thoroughfare plan or an existing standard street meeting city construction standards and accessing the existing city street system.

b. Conveyance plats must provide for the reservation of future rights-of-way of planned roadways. Right-of-way reservation acknowledges the future obligation to dedicate right-of-way for public thoroughfares and streets specified on the city's major thoroughfare plan or approved land plan. Reservation of right-of-way does not grant any right or interest in the property to the city of other entity. The final alignment may be adjusted upon final platting in order to meet engineering design standards.

c. Dedication of right-of-way shall be required where a conveyance plat is used to record the remainder of a tract created by the final platting of a portion of the property. The required right-of-way dedication shall be limited to that which is necessary to provide access to the property proposed for final plat approval and to complete turn lanes, intersections and transitions in road pavement width resulting from development of the property proposed for final plat approval.

(3) Approval procedure. A conveyance plat meeting all requirements of the city shall be placed on an agenda of the commission. Conveyance plats shall be approved provided they comply with all appropriate ordinances and master plans of the city. The commission shall approve, conditionally approve or deny a conveyance plat no later than 30 days from the date of application. The date of application shall be deemed as the date all submissions are received by the administrator and comply with the requirements of this code. If denied, the commission shall provide a written explanation of the reason for denial. If the commission fails to approve or deny the application within 30 days of the official submission date, the conveyance plat shall be deemed approved. A conveyance plat qualifying as a minor plat shall be reviewed and acted upon by the administrator in accordance with section 84-411(c).

(4) Signing and filing.

a. After the approval of the conveyance plat by the commission, and the correction of the conveyance plat as required by the commission, the property owner or his engineer shall submit filing fees and the required number of copies for filing to the administrator for filing with the county. Having submitted

all copies and fees, the owner may request a delay of filing for up to six months from the date of approval. Any conveyance plat which has not been filed with the county within six months of the date of approval shall be void. Prior to filing with the county the property owner may withdraw and void a conveyance plat. Any conveyance plat withdrawn and/or voided, must be resubmitted under current regulations and procedures and re-approved by the commission and filed with the county. Prior to filing, the chairman of the commission or the administrator shall endorse approval of the conveyance plat.

b. No final plat processed and approved in association with a conveyance plat shall be filed without the concurrent filing of the associated approved conveyance plat.

(5) Effect.

a. Conveyance plat approval and acceptance by the city does not relieve the owner from obligations, including fees, required by other sections of this or other ordinances of the city pertaining to the improvement of the property or extension of services as required to make the property suitable for development.

b. Neither reservation nor dedication of right-of-way shall relieve the property owner from obligations for street construction or assessments associated with public street improvement programs. Easements for access, utilities and drainage may be recorded on conveyance plats.

c. Final platting requirements.

1. No building permits shall be issued nor permanent utility service provided for land which has only received approval as a conveyance plat. Notwithstanding the above, the administrator may authorize temporary building permits, temporary occupancy permits, and temporary utility service.

2. A conveyance plat may be vacated, replatted or superseded in total or in part by a through compliance with the procedures and requirements of this chapter.

(Ord. No. 1133, § 1(9-900), 3-22-94)

Sec. 84-412 Replatting of land

(a) Replat required. Unless otherwise expressly provided for herein, a property owner who proposes to replat any portion of an already filed final plat, other than to amend or vacate the plat, must first obtain approval for the replat under the same standards and by the same procedures prescribed for the platting of land by these regulations. The administrator may waive or modify requirements for a land plan under circumstances where the previously approved land plan is sufficient to achieve the purposes set for in this article.

(b) Replatting without vacating preceding plat. A replat of a final plat or portion of a final plat may be recorded and is controlling over the preceding plat without vacation of that plat if the replat:

(1) Is signed and acknowledged by only the owners of the property being replatted;

(2) Is approved, after a public hearing on the matter at which parties in interest and citizens have an opportunity to be heard, by the commission; and

(3) Does not attempt to amend or remove any covenants or restrictions previously incorporated in the final plat.

(c) Additional requirements for certain replats.

(1) In addition to compliance with section 84-412(b) above, a replat without a vacation of the preceding plat must conform to the requirements of this section 84-412(c) if:

a. During the preceding five years, any of the area to be replatted was limited by an interim or permanent zoning classification to residential use for not more than two residential units per lot; or

b. Any lot in the preceding plat was limited by deed restrictions to residential use for not more than two residential units per lot.

Compliance with this subsection (c) is not required for approval of a replat of part of a preceding plat if the area to be replatted was designated or reserved for other than single or duplex family residential use by notation on the last legally recorded plat or in the legally recorded restrictions applicable to the plat.

(2) Notice of the hearing required under subsection (b) shall be given before the 15th day before the date of the hearing by publication in an official newspaper or a newspaper of general circulation in the county and by written notice, with a copy of subsection (c)(3) attached, forwarded by the commission to the owners, as indicated on the most recently approved ad valorem tax roll of the city, of property in the original subdivision within 200 feet of the property upon which the replat is requested. The written notice may be delivered by depositing the notice, properly addressed with postage prepaid, in a post office or postal depository within the boundaries of the city.

(3) If 20 percent or more of the owners to whom notice is required to be given under subsection (b) file with the commission a written protest of the replatting before or at the hearing, approval of the replat will require the affirmative vote of three-fourths of the commission members. In computing percentages of ownership, each lot is considered equal to all other lots regardless of size or number of owners, and the owners of each lot are entitled to cast only one vote per lot. The area of streets and alleys shall be included in computing the percentage of land area.

(4) Any replat which adds or deletes lots must include the original lot boundaries.

(Ord. No. 1133, § 1(9-1000), 3-22-94)

Sec. 84-413 Corrected plats

(a) Purpose. The commission may, upon petition of the property owner or developer, approve and issue an amending plat which is signed by the applicants only unless otherwise required to the contrary, and which is for one or more of the purposes set forth in this section, and such approval and issuance shall not require notice, hearing, or approval of other lot owners. This subsection shall apply only if the sole purpose of the amending plat is:

(1) To correct an error in any course or distance shown on the prior plat;

(2) To add any course or distance that was omitted on the prior plat;

(3) To correct an error in the description of the real property shown on the prior plat;

(4) To indicate monuments set after death, disability, or retirement from practice of the surveyor charged with responsibilities for setting monuments;

(5) To show the proper location or character of any monument which has been changed in location or character or which originally was shown at the wrong location or incorrectly as to its character on the prior plat;

(6) To correct any other type of scrivener or clerical error or omission as previously approved by the city; such errors and omissions may include, but are not limited to, lot numbers, acreage, street names, and identification of adjacent recorded plats;

(7) To correct an error in courses and distances of lot lines between two adjacent lots where both lot owners join in the application for plat amendment and neither lot is abolished, provided that such amendment does not attempt to remove recorded covenants or restrictions and does not have a material adverse effect on the property rights of the other owners in the plat;

(8) To relocate a lot line in order to cure an inadvertent encroachment of a building or improvement on a lot line or on an easement;

(9) To relocate one or more lot lines between one or more adjacent lots where the owner or owners of all such lots join in the application for the plat amendment, provided that such amendment does not:

a. Attempt to remove recorded covenants or restrictions; or

b. Increase the number of lots.

(10) To make necessary changes to the prior plat to create six or fewer lots in the subdivision or addition or a part of the subdivision or addition covered by the prior plat if:

a. The changes do not affect applicable zoning and other regulations of the city;

b. The changes do not attempt to amend or remove any covenants or restrictions; and

c. The area covered by the changes is located in an area that the commission has approved, after a public hearing, as a residential improvement area.

(b) Procedures. Amending plats shall be processed using procedures for conveyance plats set forth in this article.

(Ord. No. 1133, § 1(9-1100), 3-22-94)

Sec. 84-414 Plat vacation

(a) By property owner. The property owner of the tract covered by a plat may vacate, upon the approval of the commission, the plat at any time before any lot in the plat is sold. The plat is vacated when a signed, acknowledged instrument declaring the plat vacated is approved and recorded in the manner prescribed for the original plat.

(b) By all lot owners. If lots in the plat have been sold, the plat, or any part of the plat, may be vacated on the application of all the owners of lots in the plat with approval obtained in the manner prescribed for the original plat.

(c) Criteria. The commission shall approve the petition for vacation on such terms and conditions as are reasonable to protect public health, safety and welfare. As a condition of vacation of the plat, the commission may direct the petitioners to prepare a revised final plat in accordance with these regulations.

(d) Effect of action. On the execution and recording of the vacating instrument, the vacated plat shall have no effect. Regardless of the commission's action on the petition, the property owner or developer will have no right to a refund of any monies, fees or charges paid to the city nor to the return of any property or consideration dedicated or delivered to the city except as may have previously been agreed to by the commission.

(e) Government initiated plat vacation.

(1) General conditions. The commission, on its motion, may vacate the plat of an approved subdivision or addition when:

a. No lots within the approved plat have been sold within five years from the date that the plat was signed by the chairman of the commission.

b. The property owner has breached an improvement agreement and the city is unable to obtain funds with which to complete construction of public improvements, except that the vacation shall apply only to lots owned by the property owner or its successor.

c. The plat has been of record for more than five years and the commission determines that the further sale of lots within the subdivision or addition

presents a threat to public health, safety and welfare, except that the vacation shall apply only to lots owned by the property owner or its successors.

(2) Procedure. Upon any motion of the commission to vacate the plat of any previously approved subdivision or addition, in whole or in part, the commission shall publish notice in a newspaper of general circulation in the county and provide personal notice to all property owners within the subdivision or addition and shall also provide notice to the council. The notice shall state the time and place for a public hearing on the motion to vacate the subdivision or addition plat. The commission shall approve the vacation only if the criteria in section 84-414(d) are satisfied.

(3) Record of notice. If the commission adopts a resolution vacating a plat in whole, it shall record a copy of the resolution in the county clerk's office. If the commission adopts a resolution vacating a plat in part, it shall cause a revised final plat to be recorded which shows that portion of the original plat that has been vacated and that portion that has not been vacated.

(Ord. No. 1133, § 1(9-1200), 3-22-94)

Sec. 84-415 Appeals to city council

The applicant, administrator or member of city council may appeal the decision of the commission with regard to a land plan, preliminary plat, final plat, replat, conveyance plat or variance by filing a notice of appeal in the office of the administrator, no later than ten days after the date on which the commission notifies the applicant of its decision. Such notification may take place by means of an oral ruling by the commission at a public meeting. Written notice of any appeal shall be sent to the property owner. The notice of appeal shall set forth in clear and concise fashion the basis for the appeal. The council shall consider the appeal at a public meeting not later than 45 days after the date on which the notice of appeal is filed. The council may affirm, modify or reverse the decision of the commission and may, where appropriate, remand the plat, land plan, or variance request to the commission for further proceedings consistent with council's decision.

(Ord. No. 1133, § 1(9-1300), 3-22-94)

Secs. 84-416–84-439 Reserved

ARTICLE X. URBAN DESIGN PRINCIPLES AND IMPROVEMENT STANDARDS

Sec. 84-440 Urban design principles

In order to provide developers and designers with direction regarding the creation of quality and well coordinated subdivisions within the City of Euless, these design guidelines have been developed. The quality of design of the urban area is dependent on the design quality of the individual subdivision that compose it. Good community design requires the coordination of the efforts of each subdivider and developer of land within the urban area. Therefore, the design of each subdivision shall be prepared in accordance with the following provisions.

(1) The neighborhood unit. It is intended that the urban area shall be designed as a group of integrated residential neighborhoods with appropriate activity centers and corridors and industrial areas. The following design principles are central to the neighborhood unit concept.

a. Perimeter arterials. Neighborhoods are well defined when arterial streets can be routed around the perimeter of the neighborhood.

b. Collector streets. Collector streets should disperse local traffic to arterial streets without bisecting the neighborhood. Collector streets should be designed so as to discourage their use as crosstown, arterial streets.

c. Pedestrian oriented. Children can walk to school and play areas through pedestrian ways or open space corridors separated from streets and the hazards of moving automobiles.

d. Residential or local streets. Residential streets should provide good access to residential units but should be planned so that they will not be used as through-traffic routes. Culs-de-sac and curved street layouts should be used to promote low traffic volumes and preservation of residential character.

e. Schools and parks. The elementary school and neighborhood park and playground should be located in the center of the residential area while major streets are routed along the perimeter. Each family should be within one-half mile of the neighborhood center.

f. Neighborhood retail. The neighborhood shopping center is located on arterial streets. This gives good access both from within and outside of the neighborhood. Residents of other areas can reach the shopping center without traveling through the neighborhood.

(2) Physical conditions. The arrangement of lots and blocks and the street system should be designated to make the most advantageous use of topography and natural physical features. Tree masses and large individual trees should be preserved. The system of streets and sidewalks, and the layout and arrangement of blocks and lots should be deigned to take advantage of the natural and scenic qualities of the area. Land which the city council finds to be unsuitable for subdivision or development due to flooding, improper drainage, adverse earth formations, utility or pipeline easements or other features which will reasonably be harmful to the safety, health, and general welfare of the present or future inhabitants of the subdivision or its surroundings, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the city that will solve the problems created by the unsuitable land conditions.

(3) Coordination requirements. The following design requirements ensure that the proposed subdivision is coordinated with its immediate neighbors with respect to land use, street connections, utilities, drainage facilities, and the possible dedication of parks and open spaces.

a. Larger than normal building lots. When a tract is subdivided into larger than normal building lots, such lots shall be so arranged as to permit the logical location and opening of future streets and possible resubdivision of lots with provision for adequate utility easements and connections.

b. Plat of partial property. When the plat to be submitted includes only part of the contiguous property owned or intended for development by the subdivider, a tentative plan of a proposed future street system for the unsubdivided portion shall be prepared and submitted by the subdivider.

c. Extension of utilities. The subdivision plat shall provide for the logical extension of abutting and proposed utilities and drainage easements and improvements in order to provide for system continuity and to promote future development of adjacent areas.

(Ord. No. 1133, § 1(10-100), 3-22-94)

Sec. 84-441 Subdivision lay-out standards

The plan of a subdivision, which includes the lay-out of streets, lots, blocks, set-backs, and easements, and excluding the design of the infrastructure shall be governed by the regulations stated in this section.

(1) Lots. Subdivisions shall be divided into lots and blocks. Lots shall be the smallest unit of land parcels on which development may occur and shall maintain frontage on a public dedicated street unless otherwise approved by city council through the specific use permit (SUP) or planned development (PD) process. The following shall apply for lots:

a. Minimum dimensions. Lots shall have a minimum width, depth and area of not less than that required for the zoning district in which the lots are located. Corner lots shall be increased in size whenever necessary to permit any structure placed thereupon to conform to the building line of each street in accordance with the zoning ordinance requirements.

b. Double frontage lots. Double frontage lots are undesirable and will not be allowed where they can be avoided.

c. Side lot lines. Side lot lines, insofar as practical, shall be at right angles or radial to street lines.

d. Lots abutting two streets. Whenever a residential lot abuts two streets, one of which is an existing or proposed arterial street, the planning and zoning commission may require access on the nonarterial street and nonaccess reservation along the rear property line. Consequently, no driveway access shall access the arterial street. Lots at major street intersections and at all other points where traffic flow may be affected shall be rounded, or otherwise located, so as to permit the construction of curbs having a radius of not less than 25 feet without decreasing the normal width of the sidewalk area.

(2) Blocks. The lengths, widths, and shapes of blocks shall be determined with due regard for the following standards:

a. General characteristics. Blocks used for residential purposes should be of sufficient width to allow for two tiers of lots of appropriate depth. Exceptions to this standard shall be permitted in blocks adjacent to major streets, railroads, or waterways.

b. Length. Block lengths, generally, should not exceed 1,000 feet in length.

(3) Building lines. Building lines shall be shown on all lots intended for residential usage. Whenever required by the planning and zoning commission, building lines shall be shown on lots intended for business usage.

(4) Easements: Easements and fire lanes shall be provided by the lay-out design of the subdivisions to enable public access to utilities for the benefit and safety of the general public. The property owner shall be responsible for the maintenance of easements and fire lanes and shall keep the easement and fire lane areas free of all permanent improvements.

a. Utility. Minimum utility easements of 20 feet shall be provided along rear and side lot lines when necessary for use by public and private utilities. Provided, however, that the planning and zoning commission may require easements of greater width for the extension of main storm sewers, water lines or sanitary sewers and other utilities when it is deemed necessary.

b. Drainage. Minimum drainage easements shall be required when a subdivision is traversed by a watercourse, drainage channel, stream or underground conduits. Minimum easements shall be adequate to provide for the drainage requirements as determined by the city engineer and all access shall be provided to all easements detailed in this document.

c. Fire lanes. Properties that have a number of buildings constructed, or properties that contain public facilities such as shopping centers, churches, office parks, etc., shall provide for access for emergency vehicles. Emergency access lanes will be indicated on the plats and shall be of a width and configurations as required by the fire marshal of the city.

(5) Survey monuments and markers. All subdivisions shall be measured in the field and documented by certified drawings by a licensed public land surveyor. Monuments and markers established by surveyors shall comply with the following regulations.

a. Concrete monuments. Concrete monuments shall reference official city monuments. Concrete monuments at lease eight inches in diameter by 30 inches in depth, shall be placed at the four extreme corners of subdivision covering an area in excess of five acres. Where extreme corners would be closer than 500 feet, one monument will be repositioned to the next nearest corner at lease 500 feet away. Subdivisions less than five acres in area shall

have monuments located at the northeast most and southwest most corners. The exact intersection point on the monument shall be marked by a copper pin or cap one-fourth of an inch in diameter embedded at least three inches into the monument. The top of the monument shall be placed flush with the finished grade. Horizontal and vertical control for each monument shall be placed on the plat consistent with the NGVP 1929 datum and the NAD 1983 datum. These monuments shall be tied to a minimum of two established city brass cap monuments by coordinate and elevation.

Permanent Reference Monuments: STRIKE

b. Lot markers. Lot markers shall be a one-half-inch by 24-inch metal, concrete or other reasonably permanent material and shall be placed flush with the ground, or countersunk, if necessary, in order to avoid being disturbed.

(6) House and business numbers. House and business addresses shall be allocated to lots. Addresses will be in general compliance with the city's address grid map and follow the convention of even numbers on the right side of the street when going away from the city center (Main Street at Hwy 10 "Euless Blvd.") and odd numbers on the left side of the street when going away from the city center. One address will be assigned per platted lot, with building designations assigned by the property owner and shall follow a logical sequence allowing for emergency services identification and future expansion of the site.

(7) Parks, schools, and playgrounds. Sites suitable for parks, schools, playgrounds or other public usage, as required by the city, should be carefully considered in collaboration with the city planning and zoning commission and so indicated upon the preliminary plat. This is done so that these sites can be checked for conformity with the recommended locations indicated upon the master plan and so that these sites can be duly placed upon the final plat for dedication. Such sites should be in conformity with the general requirements of the city planning and zoning commission in keeping with modern city planning principles. They shall be of adequate size as recommended by the city planning and zoning commission and as may be required by the city under its policies and specifications. The city planning and zoning commission may require the owner or subdivider to obtain a letter from the appropriate independent school district stating that provisions for the site of future schools, if such be required, are adequate. If a schoolsite is not required, the letter is to so state.

(8) Floodprone land. Land subject to flooding, land designated by the Federal Emergency Management Agency as floodprone and land deemed by the planning and zoning commission to be uninhabitable may be platted; however, such land shall be encumbered by a drainage easement.

(Ord. No. 1133, § 1(10-200), 3-22-94; Ord. No. 1177, § II, 5-23-95)

Sec. 84-442 Street improvements standards

Any owner of land, subdivider, his or their engineer, land planner or any other person making a

street layout for any parcel of land or subdivision shall design the street layout in accordance with the following design standards.

(1) General conformance. In general, the proposed subdivision shall conform to the general projected future land use pattern as outlined by the master plans of the city that has been formulated and adopted by the city planning and zoning commission.

(2) Variations and modifications. Variations and modifications of the general requirements as outlined in this article will be made by the planning and zoning commission when, in its judgment, special or peculiar factors and conditions warrant such variations and do not affect the general application or spirit of the rules and regulations or the master plans of the city.

(3) Street classifications. The arrangement, classification, character, length, width, grade and location of all streets shall conform to the City of Euless master thoroughfare plan. The standard widths of streets shall be designed in accordance with the following:

Street Type	**Minimum ROW Width (in feet)**	**Minimum Pavement Width (in feet)**
Major arterial	80–160	48–100
Minor arterial	80–100	36–86
Collector	60–68	36–48
Local	50	30
Cul-de-sac radii	70	50

a. Major arterial. The subdivider shall be required to dedicate appropriate right-of-way for major arterial streets required within or abutting said subdivision in accordance with the master thoroughfare plan. The right-of-way and pavement widths shall be in accordance with the adopted thoroughfare plans used by the city. The width of paving shall include channelization and storage lanes as may be appropriate, as determined by the city engineer.

b. Minor arterial. The subdivider shall be required to dedicate appropriate right-of-way for major arterial streets required within or abutting said subdivision in accordance with the master thoroughfare plan. The right-of-way and pavement widths shall be in accordance with the adopted thoroughfare plans used by the city. The width of paving shall include channelization and storage lanes as may be appropriate, as determined by the city engineer.

c. Collector. These streets shall be constructed in new subdivisions by the subdivider. The city will pay all increased costs associated to the extent said costs exceed that necessary to build a residential street as defined herein; subject to city council approval and the availability of funds.

d. Local. These streets shall be constructed in new subdivisions by the subdivider.

e. Culs-de-sac. When the planning and zoning commission determines that the most desirable residential plan requires laying out a dead-end street, the street shall terminate in a cul-de-sac; said dead-end street shall be no more than 600 feet long, unless topography, density, adequate circulation, or other unusual conditions necessitate a greater length.

(4) Dead-end streets. Except in unusual cases, dead-end streets will not be approved unless such dead-end streets are provided for in such a manner that will permit connection with future streets in adjacent platted land. Courts, culs-de-sac or "places" may be provided where the shape of a portion of the proposed subdivision or the terrain of the land would make it difficult, uneconomical or unreasonable to plat with connecting streets. A turnaround must be provided at the closed end having an outside radius of not less than 50 feet. In general, no reserve strips controlling access to land dedicated or to be dedicated to public use shall be permitted.

(5) Access to arterial streets. Where a residential subdivision borders on or contains an existing or proposed arterial street, the planning and zoning commission shall require that access to such streets be limited by the following:

a. Nonaccess reservation strip. The subdivision of lots so as to back into the primary arterial and front onto a parallel local street with a nonaccess reservation strip along the rear property line to prevent access from the arterial;

b. No through street. Providing a series of culs-de-sac, U-shaped local streets, or short loops entered from and designed generally at right angles to a parallel street, with the rear lot lines of their terminal lots backing into the arterial street.

(6) Access to subdivision. Single access points for subdivisions are not desired, but if they are necessary the entry must be a parkway design type with a minimum of four, 12-foot lanes and a minimum of a four-foot median.

(7) Offsets in streets alignment. Offsets in street alignment shall be avoided. When a subdivision street is intersected by two other subdivision streets, the intersecting streets should form a cross-intersection or two tee intersections offset at their centers by at least 150 feet. In the case of two collector or arterial street intersections. A larger street offset may be required to allow for left turn storage between intersections. Intersections of five or more approaches shall not be permitted. The preferred angle of intersection of intersecting streets is 90 degrees. Acute angles between streets in subdivisions at their intersection shall be avoided: provided, that when intersecting angles sharper than 80 degrees are deemed necessary by the city, the property line in the small angle of the intersection shall be rounded, or otherwise located, so as to permit the construction of curbs having a radius of not less than 25 feet without decreasing the normal width of the sidewalk area. When the intersecting angle of property lines is 80 degrees or less, a line of sight triangle easement prohibiting sight obstruction shall be deeded.

(8) Curbs and gutters. All streets shall be designed with concrete curb and gutters as

per city's standard detail sheets.

(9) Curve requirements. Curvilinear streets will be permitted. Major thoroughfares may have a minimum radius at the center line of the street of 1,920 feet. Collector streets may have a minimum radius at the center line of the street of 1,000 feet. Minor residential streets may have a minimum radius of 600 feet. In special circumstances, the city planning and zoning commission may approve of shorter radii where the circumstances justify such action upon recommendation of the city engineer.

(10) Street grades. Major thoroughfares shall be limited to a maximum grade of five percent unless the natural topography is such that steeper grades are essential. In this case, grades up to seven and one-half per cent may be used for a distance not to exceed 200 feet maximum in any one continuous distance. Collector streets shall be limited to a maximum grade of seven and one-half percent. Minor residential streets shall be limited to a maximum grade of ten percent. The minimum grade of any street shall be not less than six-tenths of one percent. Grade changes in the center line of streets with an algebraic difference in grades of more than two percent shall be connected with vertical curves. The street grading, grades and vertical curves shall be such that the sight distance is not less than 600 feet on main thoroughfares, and not less than 400 feet on all other streets. Where cross slopes are desirable or necessary from one curb to an opposite curb, the cross slope shall not be more than 12 inches in 30 feet.

(11) Street connections with adjacent subdivisions. In order that proper relationship of new subdivision streets may be maintained with adjoining streets and land, the system of streets in a new subdivision, except in unusual cases, must connect with streets already dedicated in adjacent subdivisions that have been platted. There must, in general, be a reason able projection of streets into the nearest subdivided tracts, and the same must be continued to the boundaries of the tract subdivided, so that other subdivisions may be connected therewith.

(12) Provisions for future streets. Where a tract of land is subdivided into parcels that are larger than normal building lots, such parcels shall be arranged to permit the opening of future streets and a logical ultimate resubdivision.

(13) Alleys, commercial property. Alleys, or adequate loading areas, shall be provided for commercial property. Alleys shall be a minimum of 20 feet in width and shall consist of a concrete paving as approved by the city engineer.

(14) Alleys, residential property. Alleys shall not be required in residential districts, with exception to instances where the extension of an alley would be consistent and appropriate relative to existing and adjacent subdivisions. Permitted alleys shall be a minimum of 20 feet in width and shall consist of a paved surface as approved by the city engineer.

(15) Obstructions of view or sight. On any lot on the street side, or sides if it is a corner lot, no wall, fence or other structure shall be erected, and no hedge, tree, shrub or other growth or structure of any kind shall be maintained in such location as to obstruct the view.

The definition of “obstruction” is any fence, wall, hedge, shrubbery, etc., higher than 36 inches above adjacent top of curb at property line to a point 52 inches above adjacent top of curb at the building line on a lot is hereby declared to be an obstruction to view, except single trees having single trunks, which are pruned to a height of seven feet above ground level. No solid fence shall be constructed in front of the building line on any lot including corner lots, except as defined above.

Sight visibility triangles will be required to dedicated and maintained at these intersections. The legs of the triangles will be determined by the angle of the intersection.

(16) Sidewalks. Sidewalks on both sides of all public rights-of-way shall be installed by the subdivider at time of public improvement. The minimum paving width in single-family residential areas shall be four feet and in all other areas five feet along the right-of-way line. The sidewalks shall be located one foot from property line between the curb and property line. Sidewalks shall be located along major thoroughfares where lots do not adjoin the streets, along power line easements and in other areas where pedestrian walkways are necessary. Hike and bike sidewalks shall be built by the developer along streets designated for hike and bike trails or as required by the planning and zoning commission. All sidewalks shall be at-grade at driveways in accordance with the Americans with Disabilities Act of 1990.

(17) Handicap ramps. Handicap ramps shall be installed at all intersections in accordance with the Americans with Disabilities Act of 1990.

(Ord. No. 1133, § 1(10-300), 3-22-94)

Sec. 84-443 Water and wastewater improvement standards

The developer shall install a complete water distribution system and complete wastewater collection system to serve proposed subdivisions. Individual water taps, including approved meter boxes set to grade, shall be installed with proposed systems. Individual water service and wastewater service locations shall be permanently marked with a stamp (“W” for water, and “S” for sanitary sewer) on the face of the curb; or if no curb is constructed, on the top of the pavement. The markings shall be a minimum of four inches in height. All new water and wastewater lines crossing under existing paved streets shall be bored or jacked, casing pipe installed, and pressure grouted immediately upon completion of bore. All approved meters, valves, pipe material, acceptable products and construction details are contained in the city’s standard detail sheets as provided by the city engineer’s office.

(1) Water. The developer shall install a complete water distribution system to serve his subdivision. the size of lines to be installed shall be determined by the city master water plan and the type of development to be served.

a. Size of feeder mains. Feeder mains shall not be smaller than eight inches in diameter and if possible the system shall be looped. Dead end lines shall be avoided where possible and in no instance shall any dead end line exceed 600 feet in length. All dead end lines shall have an approved blow-off/sample

station.

b. Location. Water mains shall be located between the back-of-curb and right-of-way line on the north and east sides of public streets.

c. Valves. Approved gate valves shall be installed on water lines as required for control of the system, to properly isolate mains for maintenance and where needed as determined by the city engineer. A two and one-half foot square concrete pad with appropriate openings, shall be constructed at ground level around the valve.

d. Fire hydrants. Approved fire hydrants shall be installed on water systems at intervals of 500 feet minimum radius when serving residential areas of nine units per acre or less; and at intervals of 350 feet minimum radius in all other land uses and residential densities. Fire hydrant spacing along a water main shall not, in any case, exceed 600 feet in single-family residential areas and 300 feet in commercial, industrial and heavily congested residential areas. All water lines must be looped unless specifically approved by the city engineer. All lines must be pressure tested and meet all federal and state testing requirements. No more than one fire hydrant will be allowed on six-inch lines unless approved by the city engineer. All fire hydrants shall be valved. A blue traffic button shall be located in the street one traffic lane width in front of the curb directly in front of the fire hydrant. Fire hydrants shall be primed and painted with a machine implement grade enamel paint. The body of the fire hydrant shall be painted “fire engine” red and the bonnets or tops of the hydrants shall be painted with reflective paint in accordance to the size of the main to which the hydrant is connected, as indicated below:

    1. Six-inch diameter water lines = Red reflective paint.

    2. Eight-inch diameter water lines = White reflective paint.

    3. Twelve-inch and greater diameter water lines = Blue reflective paint.

e. Material. Water mains shall have a minimum cover of 48 inches to finish grade and shall be constructed of materials as permitted by the city’s specifications or approved by the city engineer.

f. Backfill. All lines must be backfilled with the appropriate material and compacted as determined by the design specifications as adopted by the city.

g. Installation. All water main pipes shall be bedded with a minimum of six inches of cushion sand (or approved material) under the pipe and a minimum of 12 inches of cushion sand (or approved material) over the pipe. The rest of the trench shall be filled with density controlled compacted crushed limestone base material placed in lifts not to exceed eight inches in depth.

h. Blocking. In order to protect installed pipelines from the deteriorating force of a pressurized system, fire hydrants, valves, pipe ends, and pipe angles or any

alignment change shall be blocked with concrete.

i. Water meter location.

(2) Wastewater. The developer shall install a complete sewerage collection system to serve the subdivision.

a. Size of wastewater collection line. The size of line shall be determined by the city master sewer plan and the type of development to be served; however, collection lines shall not be less than eight inches in diameter except when serving less than 200 feet and no more than two manholes are required upstream.

b. Location. Wastewater collection lines shall be located between the back-of-curb and right-of-way line on the south and west sides of public streets.

c. Material. Wastewater collection lines shall be constructed of materials as permitted by the city's specifications or approved by the city engineer.

d. Installation. Wastewater collection lines shall be installed a minimum of four and one-half feet below the finished grade of adjacent top-of-curb or pavement or adjacent property to be served (whichever is lower in elevation) and shall if possible maintain a minimum of four and one-half feet of cover. Wastewater collection lines shall be bedded with a minimum of six inches of cushion sand (or approved material) under the pipe and a minimum of 12 inches of cushion sand (or approved material) over the pipe. PVC joints shall be rubber locked ring-type.

e. Backfill. All lines must be backfilled with the appropriate material and compacted as determined by the design specifications as adopted by the city.

f. Grades. Wastewater collection lines shall be designed to have a minimum mean velocity flowing full of two and one-half per second (fps). The minimum slope of the line shall conform to the minimums recommended by the Texas Department of Health (TDH) and/or the Texas Water Commission and maximum velocity shall not exceed ten fps.

g. Manholes. Manholes shall be located at all intersections of wastewater collection lines, changes in grade, changes in alignment, and at distances not to exceed 500 feet. Manholes shall be constructed of precast reinforced concrete pipe or cast in place concrete and fiberglass will be allowed in certain situations only. Brick manholes will not be allowed. Where PVC pipe enters manholes, an approved coupling with rubber ring joint shall be used to provide a watertight connection. A concrete pad measuring four square feet shall be poured at ground level around the lid of the manhole.

h. Drop manholes. Drop manholes shall be used at locations where the elevation of the incoming wastewater collection line is two feet or greater from the

elevation of the outgoing line. Construction shall be the same as the standard manhole.

i. Cleanouts. Cleanouts shall be constructed at the upper end of all wastewater collection mains. Cleanouts shall be constructed of the same material and same size as the wastewater collection main. The top shall have a cast iron boot with cover. A two and one-half foot square by six-inch thick concrete pad shall be placed around this boot. Cleanout locations shall be stamped in the nearest street/curb.

j. Lift stations. Lift stations shall be designed in accordance with the criteria of the state regulatory agency. Design data will be submitted and approved by the city engineer or public works director on a case-by-case basis. Lift stations will be allowed only when no other feasible alternative will work.

(Ord. No. 1133, § 1(10-400), 3-22-94)

Sec. 84-444 Stormwater improvement standards

Developers shall be required to design and construct stormwater improvements to protect the general health, safety and welfare of the public by reducing flooding potential, controlling excessive runoff, minimizing erosion and siltation problems, and eliminating damage to public facilities resulting from uncontrolled stormwater runoff. Increased stormwater runoff attributable to new development must not exceed the capacity of the downstream drainage system or adversely affect adjoining property. Where the proposed runoff would exceed capacity, the city may accept the phasing of development, the use of control methods such as retention or detention, and/or the construction of off-site drainage improvements as means of mitigation.

(1) Method of measuring. The determination of design discharge of storm drainage water shall be accomplished in accordance with the following criteria:

a. Development assumption. All calculations shall be performed assuming 100 percent urbanization of the affected drainage area. Land uses for ultimate development will be determined by existing zoning unless otherwise approved by the city. Land use for drainage areas or portions of drainage areas laying outside of the corporate limits of Euless shall be determined by the zoning maps of the respective cities.

b. Rational method. The rational method (Q = CIA) shall be used on small watersheds of 750 acres or less.

c. Unit hydrograph. Unit hydrograph techniques shall be used for areas greater than 750 acres. The technique and data to be used for the determination of the design discharge shall be approved by the city engineer prior to the completion of calculations. A complete set of all detailed calculations must be submitted to the city engineer for approval prior to the completion of the plans for the drainage system.

d. Design flow. The design flow shall be based on a 25-year return frequency

except for bridges, culverts, underpasses, and open ditches. For the latter, storm drainage design flow shall be based on a 100-year return frequency storm. The 25-year flow must be contained within an enclosed system. The 100-year flood must be conveyed within the dedicated right-of-way or drainage easements.

e. Intensity and duration. The intensity and duration of the rainfall shall be based on Technical Paper No. 40 of the Weather Bureau of the United States Department of Commerce (City of Fort Worth Intensity Curves) for the various frequencies.

f. Runoff coefficients. The coefficient of runoff to be used in the calculations shall be as follows:

Description of Area	**Coefficient**
Business areas	0.95
Industrial areas	0.95
Multifamily residential	0.70
Other residential areas	0.65
Park and permanent open spaces	0.35

The time coefficient of runoff for undeveloped land shall be the appropriate coefficient for the ultimate land development as shown on the future land use map of the latest city master plan.

g. Time of concentration. The time of concentration is defined as the longest time that will be required for a drop of water to flow from the upper limit of the drainage area to the point of concentration. Time of concentration is a combination of the inlet time and the time of flow in the storm drainage facility. Inlet time is composed of overland flow time plus the time of flow in the gutter required to reach the inlet.

1. In calculating gutter time the following are to be assumed to be gutter velocities:

Slope of Gutter (percent)	**Assumed Velocity (in feet per second)**
0.4	1.4
1.0	2.2
2.0	3.1
3.0	3.8
4.0	4.3
5.0	4.9
6.0	5.3
8.0	6.1
10.0	6.9

2. The minimum inlet times of concentration are show below:

Description	**Time in Minutes***
Parks and permanent open areas	20
Residential areas	15
Multifamily, business and industrial	10

* In cases where it is evident that the actual time of concentration is less than that indicated above, a shorter time of concentration should be used.

(2) Curb height. Curb height on all streets shall be not more than eight inches and at least equal to the depth of water at design flow.

(3) Maximum water depth. Maximum depth of water to be allowed in streets at design flow shall be determined by the classification of the street on the major street plan of the city and as set forth in section 84-444(5)b., but not more than eight inches, as determined from street width and slope.

(4) Finish floor elevations. Finish floor elevations shall be required to be shown on all lots that either lay within or are adjacent to a designated 100-year flood plain. Finish floor elevation shall be two feet above any 100-year flood elevation as determined by FEMA or in the absence of FEMA information as determined by an engineering hydraulics study approved by the city engineer.

(5) Drainage features and policies. In order to define drainage conditions and the policies associated with those conditions the following criteria and regulations are provided:

a. Types of drainage features. The three types of drainage features that are addressed in this subsection consist of the following:

1. Closed drainage systems.

2. Reinforced concrete lined channels.

3. Natural channels.

b. Spread of water. During the design storm, the quantity of stormwater that is allowed to collect in the streets before being intercepted by a storm drainage system is referred to as the “spread of water.” In determining the limitations for carrying stormwater in the street, the ultimate development of the street shall be considered. The use of the street for carrying stormwater shall be limited as follows:

Thoroughfares = Two traffic lanes to remain clear

Collectors = One traffic lane to remain clear

Residential streets = Six-inch depth of flow at the curb or no lane completely clear

(6) Closed drainage systems. Stormwater in excess of the stated quantities allowed to be carried in the streets shall be handled in storm sewer pipe, or shall be handled in open ditches not in the street right-of-way. Capacity of storm sewers and ditches shall be calculated by Kutter's or Manning's formula or other approved methods. Stormwater runoff shall be carried in a storm sewer pipe when either of the following apply (headwalls shall be constructed at the outfall of all storm systems.):

a. The runoff can be carried in a pipe of 72 inches in diameter or smaller; or

b. Where it is necessary for the protection of adjacent facilities that the stormwater be carried in an enclosed facility.

(7) Reinforced concrete lined open channels. Reinforced concrete lined open channels should be used when the criteria outlined in section 84-444(5) is exceeded. Reinforced concrete lined channels shall conform to the following:

a. "CA" factors less than 250. Channels draining an area with a "CA" factor of 250 or less shall be lined with reinforced concrete in a manner which will contain the design frequency storm plus one foot of freeboard within the concrete lining.

b. "CA" factors between 250 and 500. Channels draining an area with a "CA" factor of more than 250 but less than 500 shall be concrete lined to contain the runoff from a 25-year return frequency storm with the balance of required design frequency storm contained within grassed slopes no steeper than three horizontal to one vertical and with a minimum of one foot freeboard.

c. "CA" factors greater than 500. Channels draining a area with a "CA" factor of more than 500 shall be governed by criteria designed for the individual situation.

(8) Natural channels. Channels may be preserved when criteria in section 84-444(7) is met or when the developer desires to preserve the natural channels within his addition for the purpose of aesthetics and/or open space and when approved by the city engineer according to the procedures prescribed for plat approval. The following criteria shall apply when it is desirable to preserve natural channels:

a. Application for preservation of natural channel. An application for preservation of a natural channel shall be submitted through the director of planning and development for review by the City of Euless a minimum of 21 days prior to the approval of the preliminary plat. This application shall contain the following information furnished by the developer:

1. Topographic, hydrologic and hydraulic information sufficient to properly evaluate the proposal.

2. When the natural channel to be preserved is one which has had a floodplain information report prepared by the Corps of Engineers or other governmental agencies, the identified 100-year return frequency storm shall be shown to the extent that it affects the property in the application. In addition, it shall be demonstrated and stated on the plans that the proposed improvements will comply in all respects with the criteria outlined in Section 1910 of the national flood insurance regulations as amended promulgated by the Federal Insurance Administration. A hydrologic report also shall be provided to determine and identify the 100-year flood plain after the proposed improvements are in place.

3. When a governmental report does not exist, a civil engineering and hydrologic survey and report must be provided to determine the existing and proposed 100-year flood plains.

b. Criteria for channels measuring less than a "CA" of 500. When the drainage feature measures less than a "CA" of 500, the proposed improvement shall be constructed with a reinforced concrete pilot channel not less than six feet in width and having at least eight-inch vertical curbs and a depressed invert with a minimum of transverse slope of two-thirds-inch per foot. The remainder of the channel shall consist of earthen side slopes with proper vegetative cover on slopes no steeper than two horizontal to one vertical below the elevation required for the design frequency storm and three horizontal to one vertical above. In the special cases approved according to the procedure prescribed for plat approval, large single tract developments may be governed by criteria designed for the individual situation.

Cases of this nature shall be considered only where the applicant demonstrates substantial preservation of aesthetics and/or open space. The mere reduction of development costs will not be considered as justification for this variance. A perpetual maintenance agreement shall be provided in accordance with the requirements of this document to include all maintenance responsibility for the facility.

c. Criteria for channels measuring a "CA" greater than 500. When the drainage feature measures greater than a "CA" of 500, the following criteria shall also be met:

1. All land having an elevation below the 25-year return frequency flood elevation shall be contained within an easement dedicated to the public for the purpose of providing drainage. The 25-year return frequency storm shall be determined on the basis of a fully-developed watershed according to the latest available master plan.

2. All channel improvements such as reshaping, realignment, etc., shall be protected with sodding, back sloping, cribbing, and other bank protection designed and constructed to control erosion from the 25-year return frequency storm.

3. An analysis shall also be made to determine the limits of the 100-year return frequency flood. The 100-year flood must be maintained between the top of banks of the channel unless approved by the city engineer. A flowage easement shall be dedicated to limit the construction of any structures in the area bounded between the 100-year and 25-year return frequency storms as indicated above. The term structure shall be construed to include any and all types of fences, portable buildings or any man-made device which could be construed to be an obstacle to the flow of water.

4. The following velocity controls shall be applied to channels with earthen banks:

Description	**Velocity (in feet per second)**
Unlined banks in clay soil with grass cover	8.5 fps
Unlined banks in sand or silty soil with grass cover	5.0 fps

5. A perpetual maintenance agreement in form prescribed by the city shall be executed by all parties owning any interest in the property abutting upon, adjacent to, or included within such channel and flowage easement provided for in the document. Such perpetual maintenance agreement shall be filed of record and shall establish an affirmative burden, charge and duty on the part of all existing and future parties owning any interest in the property abutting upon, adjacent to, or included within such channel and flowage easement for the maintenance of the channel and flowage easement with regard to vegetation, erosion control and the control of trash and debris. The right, without a duty to do so, shall be given the city to enforce such perpetual maintenance agreement, and, if it so elects, to perform necessary maintenance, the pro-rata cost of which may be charged as a priority lien and assessment against the property and the owners thereof abutting upon, adjacent to, or included within such channel and flowage easement.

(9) Catchbasins. Sufficient and adequate catchbasins shall be installed to allow entry of required quantity of water into storm sewers. Catchbasin inlet openings shall be seven inches high and there shall be at least one linear foot of catchbasin inlet opening for each cubic foot per second of water to be discharged into the catchbasin.

(10) Street grades. Street grades shall be such that excessive sand deposition from too low a water velocity or pavement scouring from too high a velocity is to be avoided as far as practical. Street grades are normally to be not less than six feet nor more than 75 feet fall per 1,000 linear feet and shall never be less than six feet per 1,000. Storm sewers shall be provided and all water is to be diverted from the streets into the storm sewers, regardless of the quantity. Use of asphalt pavement will not be allowed when the water velocity exceeds eight feet per second at design flow.

(11) Valley gutters. Valley gutters shall be provided to carry the water flow across all intersections. Valley gutters shall be of concrete construction and shall be six inches thick and eight feet wide.

(12) Water dumped from street into watercourse. Where water is dumped from a street directly into an open watercourse, it shall be dumped through an approved type of catchbasin, or through a retard lined with concrete.

(13) Height of curb where water directed. Where a flow of water is directed towards a curb and is required to turn in direction, the height of the curb against which the water is directed shall be not less than the depth of water flow plus the velocity head of the water plus two inches.

(14) Open ditches and channels. All open ditches in subdivisions that are used to carry surface runoff shall be lined in accordance with the criteria outlined in this document. The required improvement shall extend across the entire areas of each subdivision being developed and off-site improvements shall be as required by the document or city engineer. Lining of drainage ditch floors shall be done with six inches thick or thicker concrete. Walls shall be a minimum of five inch thick concrete sloped not steeper than one foot vertically to one and one-half feet horizontally.

All open channels shall have a minimum bottom width of four feet. The height of the lining shall be adequate for the calculated depth necessary to meet the requirements of this document. Side slopes of the channel above the lining shall not be steeper than one foot vertical to three feet horizontal. Ramp access must be provided for maintenance purposes.

(15) Easements, etc., for drainage structures in new subdivisions. In new subdivisions, the developer shall provide all the necessary easement and right-of-way required for drainage structures, including storm sewers and open lined channels. Easement width for storm sewer pipe shall be not less than 20 feet, and easement width for open channels shall be at least 20 feet wider than the top of the channel, 15 feet of which shall be on one side to serve as access way for maintenance purposes. Access for maintenance must be provided also.

(16) Off-site drainage. Where drainage is impacted or impacts the proposed subdivision, the following criteria shall be observed:

a. Responsibility of owner/developer. The owner or developer of the property to be developed shall be responsible for all storm drainage flowing on his property. This responsibility includes the drainage directed to that property by prior development as well as drainage naturally flowing through the property by reason of topography.

b. Consideration of discharge. Adequate consideration shall be given by the owner in the development of property to determine how the discharge leaving the proposed development will affect downstream property.

c. Control of runoff. In all new developments where stormwater runoff has been collected or concentrated, it shall not be permitted to drain onto adjacent property except in existing creeks, channels or storm sewer unless proper drainage improvements are made, drainage easements are provided, and the water is released in a nonerosive manner that meets all federal, state and local rules and regulations.

d. Financial responsibility. The subdivider shall pay for the cost of all drainage improvements required for the development of his subdivision, including any necessary off-site channels or storm sewers and acquisition of the required easements with the following exception: if the owner is unable to acquire the necessary off-site easements, he shall provide the city with documentation of his efforts, including evidence of a reasonable offer made to the affected property owner. Upon such a written request for assistance, the city shall attempt to acquire these easements through negotiations. In certain situations the city may consider condemnation. In any case, all costs associated with the acquisition of these easements shall be paid by the owner.

e. Overloading downstream facility. Where it is anticipated that additional runoff incident to the development for the subdivision will overload an existing downstream drainage facility, whether natural or man made, and result in hazardous conditions, the planning and zoning commission may withhold approval of the subdivision until appropriate provision has been made to accommodate the problem. Where it is determined that existing capacity is not available immediately downstream, the owner's engineer shall design a drainage system, detention facility or parallel system to mitigate the deficiency. Plans shall be provided which include all necessary off-site improvements including storm sewer systems, channel grading, driveway adjustments, culvert improvements, retention and detention basins, etc.

(17) Bridges. Bridges are to be constructed at all street crossings over the major streams in the city and shall have the proper dimensions to fit the proposed channel sections given in the drainage section of the city master plan.

(18) Alternate facilities. Other innovative drainage concepts will be considered if approved by the city engineer.

(Ord. No. 1133, § 1(10-500), 3-22-94)

Sec. 84-445 Streetlight improvements

Streetlights on rust resistant metal standards are required in all subdivisions developed after the effective date of this document, consistent with the following criteria:

(1) Minimum capacity of luminaries. The minimum capacity of luminaries abutting local and collector streets shall be 100 watt high pressure sodium (8,500 lumens initial rating) or an approved equal. The minimum capacity of luminaries abutting minor and major arterials shall be 250 watt high pressure sodium (8,500 lumens) or an approved equal approved by the city engineer.

(2) Locations. Streetlights shall be installed at all intersections, at the end of culs-de-sac, and at additional locations not less than 200 feet apart. Locations shall be designated so as to provide an average separation of approximately 500 feet. Variations shall occur only where lot widths and/or other conditions necessitate.

(3) Shown on preliminary plat. The subdivider, in cooperation with TU Electric, shall designate proposed streetlight locations on the preliminary plat.

(4) Approval by the city engineer. The city engineer shall approve streetlight locations and may require relocation of designated streetlights and/or addition or deletion of streetlights.

(5) Associated costs. All costs associated with the construction and installation of streetlights in subdivisions developed after the effective date of this document shall be paid by the subdivider. Payment of said costs shall be a prerequisite to approval of the final plat of the subdivision and acceptance of the improvement.

(6) Assumed costs. Upon installation and acceptance of any public streetlight at a location established in accordance with the above guidelines and subject to maintenance bonds, the city shall assume the monthly power and maintenance cost charges set in the current rate schedule.

(Ord. No. 1133, § 1(10-600), 3-22-94)

Sec. 84-446 Standard specifications

The basic uniform specifications, as prepared by the North Central Texas Council of Governments and with local amendments, shall be utilized for all public works projects installed within the city's jurisdiction. Use of these specifications will accomplish the following:

(1) Complement other city project design standards and specifications.

(2) Allow common interpretation of provisions for all disciplines involved in public works construction.

(3) Simplify the bidding process for both the city and contractors.

(4) Provide a continuing amendment process to meet the changing demands of new technology, new materials and improved methods.

(5) Reduce city expenditures associated with staff or consultant development of specifications and training of construction inspectors.

(6) Result in decreased construction costs for public works projects.

Copies of the "Standard Specifications for Public Works Constructions" are available for purchase from the administrator or from the North Central Texas Council of Governments, P.O. Drawer COG, Arlington, Texas 75006-5888. In the event these specifications are in conflict with

the city's standards, the city's standards shall prevail.

(Ord. No. 1133, § 1(10-700), 3-22-94)

Sec. 84-447 Construction erosion and sediment control

(a) Purpose. The purpose of this section is to minimize the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges from construction activity.

(b) Administration. The director of public works or the director's designated representatives are authorized to administer, implement and enforce the provisions of section 84-447.

(c) Definitions. Unless explicitly stated otherwise, the following terms and phrases, as used in this section, shall have the meanings hereinafter designated.

City. City of Euless, Texas.

Director. The director of public works for the City of Euless.

Discharge. Any addition or introduction of any pollutant, stormwater or any other substance into the municipal separate storm sewer system (MS4).

City engineer. The city engineer for the City of Euless.

Municipal separate storm sewer system (MS4). The system of conveyances (including sidewalks, streets, curbs, gutters, storm drain inlets, storm drain pipes, roadside swales, detention ponds, creeks, streams or channels) designed or used for collecting and/or conveying stormwater.

Person. Any individual, partnership, corporation, firm, company or any other legal entity.

Stormwater. Any flow occurring during or following any form of natural precipitation.

(d) Erosion and sediment control plan.

(1) The removal of natural vegetation or excavation disturbing more than one-half-acre of land requires the preparation of a stormwater pollution prevention plan (SW3P).

(2) Tracts of land less than one-half acre that are part of a larger project (such as an individual lot in a residential subdivision) require preparation of a SW3P.

(3) A person desiring to commence construction activities involving subsections (d)(1) or (2) above shall prepare a SW3P.

a. The SW3P shall be prepared in the format as determined by the city engineer.

b. The SW3P shall utilize city standard details or details approved by the city engineer.

c. The SW3P shall be submitted to the city engineer for review.

d. Upon release of the SW3P by the city engineer, the SW3P shall be implemented prior to removal of natural vegetation or excavation.

(e) Construction site waste.

(1) An enclosure (with a top) for construction site waste (paper, wood scraps, building material scraps, wire, miscellaneous debris, etc.) shall be provided on the construction site.

(2) Materials deposited in the enclosure for construction site waste shall be disposed of weekly or more often if necessary.

(f) Public comment or information.

(1) The public may submit comments or information regarding the maintenance or operation of a SW3P by contacting the city engineering division.

(g) Inspection and enforcement.

(1) For multifamily, single-family, retail or commercial projects the engineering division inspector shall inspect and enforce the installation and maintenance of the SW3P.

(2) For individual residential lots, the building official shall inspect and enforce the installation and maintenance of the SW3P.

(h) Maintenance of the SW3P.

(1) The owner of the property upon which the SW3P is installed shall be responsible for the maintenance and operation of the SW3P.

(2) The SW3P shall remain in place until vegetation is restored on any land that is excavated or disturbed by construction.

(Ord. No. 1873, § I, 5-11-10)

Sec. 84-448 Post-construction stormwater management

(a) Purpose. The purpose of this section is to reduce pollutants in stormwater discharges from developments by guiding, regulation and controlling the design and operation of storm drainage facilities of any development.

(b) Administration. The director of public works or the director's designated representatives are authorized to administer, implement and enforce the provisions of section 84-448.

(c) Definitions. Unless explicitly stated otherwise, the following terms and phrases, as used in this section, shall have the meanings hereinafter designated.

Best management practices (BMPs). Schedules of activities, prohibitions of practices, general

good housekeeping practices, maintenance procedures, pollution prevention and educational practices and other maintenance practices to reduce the discharge of pollutants in to the MS4.

City. City of Euless, Texas.

Director. The director of public works for the City of Euless.

Discharge. Any addition or introduction of any pollutant, stormwater or any other substance into the municipal separate storm sewer system (MS4).

City engineer. The city engineer for the City of Euless.

Municipal separate storm sewer system (MS4). The system of conveyances (including sidewalks, streets, curbs, gutters, storm drain inlets, storm drain pipes, roadside swales, detention ponds, creeks, streams or channels) designed or used for collecting and/or conveying stormwater.

Person. Any individual, partnership, corporation, firm, company or any other legal entity.

Post-construction. The general time period beginning at the completion of the construction phase of any construction activity.

Stormwater. Any flow occurring during or following any form of natural precipitation.

(d) Applicability. Post-construction stormwater BMPs are required on development or redevelopment construction projects that are expected to disturb at least one-half acre of land and fall in one or more of the following criteria:

(1) Construction of any type of commercial car wash facility.

(2) Construction of an automotive fueling facility including convenience stores.

(3) Construction of an automotive maintenance or repair facility.

(4) Restaurants (fast food or sit down) with grease collection and disposal.

(5) Other land uses deemed to have a high potential of pollutant discharge into the MS4 as determined by the city engineer.

(e) General requirements.

(1) Post-construction stormwater BMPs are contained in the city's standard details. Alternative BMPs may be used if approved by the city engineer.

(2) Post-construction BMPs shall be clearly indicated and shown on a site plan for development that is required by this Code.

(3) The maintenance schedule for post-construction stormwater BMPs shall be clearly indicated and shown on any site plan for development.

(f) Public comment or information.

(1) The public may submit comments or information regarding post-construction stormwater management by contacting the city engineering division.

(Ord. No. 1874, § 1, 5-11-10)

Secs. 84-449–84-469 Reserved

ARTICLE XI. ASSURANCE FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

Sec. 84-470 Improvements and subdivision improvement agreement

(a) Completion of improvements. Except as provided below, before the final plat is signed by the chairman of the commission or administrator, all applicants shall be required to complete, in accordance with the city's decision and to the satisfaction of the city engineer, all the street, sanitary, and other public improvements, as well as lot improvements on the individual residential lots of the subdivision or addition as required in these regulations, specified in the final plat, and as approved by the commission, and to dedicate those public improvements to the city. As used in this section, "lot improvements" refers to grading and installation of improvements required for proper drainage and prevention of soil erosion.

(b) Improvement agreement and guarantee.

(1) Agreement. The commission, upon recommendation of the administrator, may waive the requirement that the applicant complete and dedicate all public improvements prior to approval of the final plat, and may permit the property owner/developer to enter into an improvement agreement by which the property owner/developer covenants to complete all required public improvements no later than two years following the date on which the final plat is signed. The commission may also require the property owner/developer to complete and dedicate some required public improvements prior to approval of the final plat and to enter into an improvement agreement for completion of the remainder of the required improvements during such two-year period. The owner shall covenant to maintain the required public improvements for a period of one year following the acceptance by the city of all required public improvements and shall provide a warranty that all required public improvements will be free from defect for a period of two years following such acceptance by the city. The improvement agreement shall contain such other terms and conditions as are agreed to by the property owner/developer and the city. Nothing in this section shall nullify the city's obligation to participate in the construction of oversize facilities.

(2) Improvement agreement required for oversize reimbursement. The city shall require an improvement agreement pertaining to any public improvement for which the developer shall request reimbursement from the city for oversize costs as provided in article XII. Upon the recommendation of the city engineer, the planning and zoning commission shall authorize the approval of such agreement as meeting the requirements of the city, and the city shall not withhold approval as a means of

avoiding compensation due under the terms of this chapter.

(3) Covenants to run with the land. The improvement agreement shall provide that the covenants contained in the agreement shall run with the land and bind all successors, heirs and assignees of the property owner/developer. The improvement agreement shall be recorded in the land records of the county. All existing lienholders shall be required to subordinate their liens to the covenants contained in the improvement agreement.

(4) Security. Whenever the city permits a property owner/developer to enter into an improvement agreement, it shall require the owner to provide sufficient security, covering the completion of the public improvements. The security shall be in the form of cash escrow or, where authorized by the city, a letter of credit, as security for the promises contained in the improvement agreement. In addition to all other security, for completion of those public improvements where the city participates in the cost, the owner shall provide a performance bond from the contractor, with the city as a co-obligee. Security shall be in an amount equal to 115 percent of the estimated cost of completion of the required public improvements and lot improvements. The issuer of any surety bond and letter of credit shall be subject to the approval of the city attorney.

(5) Letter of credit. If the commission authorizes the property owner/developer to post a letter of credit as security for its promises contained in the improvement agreement, the letter of credit shall:

a. Be irrevocable.

b. Be for a term sufficient to cover the completion, maintenance and warranty periods but in no event less than two years.

c. Require only that the city present the issuer with a sight draft and a certificate signed by an authorized representative of the city certifying to the city's right to draw funds under the letter of credit.

(6) Letter of credit draw down. As portions of the public improvements are completed in accordance with the standard specifications and the engineering plans, the developer may make application to the city engineer or his designee to reduce the amount of the original letter of credit. If the city engineer or his designee is satisfied that such portion of the improvements has been completed in accordance with city standards, he may (but is not required to) cause the amount of the letter of credit to be reduced by such amount that he deems appropriate, so that the remaining amount of the letter of credit adequately insures the completion of the remaining public improvements.

(7) Retainage. Upon the dedication of and acceptance by the city of all required public improvements, the city shall authorize a reduction in the security to ten percent of the original amount of the security if the property owner/developer is not in breach of the improvement agreement. The remaining security shall be security for the owner's covenant to maintain the required public improvements and the warrant that the

improvements are free from defect for two years thereafter. The city will release the entire amount of the developer security if the required security for maintenance and warranty is provided by the contractors or by others.

(c) Temporary improvements. The property owner/developer shall build and pay for all costs of temporary improvements required by the city and shall maintain those temporary improvements for the period specified by the city. Prior to construction of any temporary facility or improvement, the owner shall file with the city a separate improvement agreement and escrow, or, where authorized, a letter of credit, in an appropriate amount for temporary facilities, which agreement and escrow or letter of credit shall ensure that the temporary facilities will be properly constructed, maintained, and removed.

(d) Government entities. Governmental entities to which these contract and security provisions apply may file, in lieu of the contract and security, a certified resolution or ordinance from officers or agencies authorized to act in their behalf, agreeing to comply with the provisions of this article.

(e) Failure to complete improvements. For plats for which no improvement agreement has been executed and no security has been posted, if the public improvements are not completed within the period specified by the city, the land study or preliminary plat approval shall be deemed to have expired. In those cases where an improvement agreement has been executed and security has been posted and required public improvements have not been installed within the terms of the agreement, the city may:

(1) Declare the agreement to be in default and require that all the public improvements be installed regardless of the extent of completion of the development at the time the agreement is declared to be in default.

(2) Suspend final plat approval until the public improvements are completed.

(3) Obtain funds under the security and complete the public improvements itself or through a third party.

(4) Assign its right to receive funds under the security to any third party, including a subsequent owner of the subdivision or addition for which public improvements were not constructed, in whole or in part, in exchange for that subsequent owner's promise to complete the public improvements on the tract.

(5) Renegotiate the terms of the agreement.

(6) Exercise any other rights available under the law.

(f) Acceptance of dedication offers. Acceptance of formal offers of dedication of street, public areas, easements, and parks shall be by authorization of the city engineer. The approval by the commission of a plat, whether land study, conveyance, preliminary or final shall not in of itself be deemed to constitute or imply the acceptance by the city of any street, easement, or park shown on plat. The commission may require the plat to be endorsed with appropriate notes to this effect.

(Ord. No. 1133, § 1(11-100), 3-22-94)

Sec. 84-471 Construction procedures

(a) Preconstruction conference. The city engineer may require that all contractors participating in the construction shall meet for a preconstruction conference to discuss the project prior to beginning work.

(b) Conditions prior to authorization. Prior to authorizing construction, the city engineer shall be satisfied that the following conditions have been met:

(1) The preliminary plat shall be completed to the requirements of the commission at the time of approval.

(2) All required contract documents shall be completed and filed with the city engineer.

(3) All necessary off-site easements or dedication required for city maintained facilities, not shown on the final plat must be conveyed solely to the city, with proper signatures affixed. The original of the documents, and filing fees as determined by the engineering department, shall be returned to the engineering department prior to approval and release of the engineering plans.

(4) All contractors participating in the construction shall be presented with a set of approved plans bearing the stamp of release of the engineering department. These plans shall remain on the jobsite at all times.

(5) A complete list of the contractors, their representatives on the site, and telephone numbers where a responsible party may be reached at all times must be submitted to the city engineer.

(6) All applicable fees must be paid to the city.

(Ord. No. 1133, § 1(11-200), 3-22-94)

Sec. 84-472 Inspection of public improvements

(a) General procedure. Construction inspection shall be supervised by the city engineer. Construction shall be in accordance with the approved plans, standard specifications and standard details of the city. Any change in design required during construction should be made by the engineer whose seal and signature are shown on the plans. Another engineer may make revisions to the original engineering plans if so authorized by the owner of the plans and if those revisions are noted on the plans or documents. All revisions shall be approved by the city engineer. If the city engineer finds upon inspection that any of the required public improvements have not been constructed in accordance with the city's construction standards and specifications, the property owner/developer shall be responsible for completing and/or correcting the public improvements.

(b) Certificate of satisfactory completion. The city will not accept dedication of required public improvements until the applicant's engineer or surveyor has certified to the city engineer,

through submission of a detailed “as-built” survey plat of the property, indicating location, dimensions, materials, and other information required by the commission or city engineer, that all required public improvements have been completed.

(1) As-builts. “As-builts” shall include a complete set of drawings of the paving, drainage, water, sanitary sewer, and other public improvements, showing that the layout of the line and grade of all public improvements is in accordance with construction plans for the plat, and all changes made in the plans during construction and containing on each sheet an “as-built” stamp bearing the signature of the engineer and the date.

(2) Microfilmed on aperture card. One complete set of microfilmed “as-built” drawings shall be provided in the form of 35mm silver negative originals along with three complete sets of diazo copies. The microfilmed originals and copies shall be provided on 31/4-inch by 71/2-inch aperture cards. Each aperture card shall have the addition name, phase, date, labeled as “as-built,” description of the sheet contents, sheet number as it appears on the original set of “as-built” plans and card numbers typed on each card in the same form and shown in Appendix A.

(3) CADD (computer aided drafting and design) data required. The engineer or surveyor shall also furnish a copy of the final plat and engineering plans, if prepared on a CADD system, in such a format that is compatible with the city’s CADD system.

(4) Acceptance of public improvements. When such requirements have been met the city engineer, on behalf of the city, shall thereafter accept the public improvements for dedication in accordance with the established procedure. Acceptance of the development shall mean that the developer has transferred all rights to all the public improvements to the city for use and maintenance. The city engineer may, at his decision, accept dedication of a portion of the required public improvements, if the remaining public improvements are not required for health and safety reasons and the owner has posted a performance bond letter of credit or cash bond in the amount of 115 percent of the estimated cost of those remaining improvements for a length of time to be determined by the city engineer. Upon acceptance of the required public improvements, the city engineer shall submit a certificate to the developer stating that all required public improvements have been satisfactorily completed.

(Ord. No. 1133, § 1(11-300), 3-22-94)

Sec. 84-473 Deferral of required improvements

(a) Commission’s authority. The commission may, upon petition of the property owner/developer and favorable recommendation of the city engineer, defer at the time of final approval, subject to appropriate conditions, the provision of any or all public improvements as, in its judgment, are not required in the interests of the public health, safety, and general welfare. (see section 84-407(c)(3)).

(b) Funding required. Whenever a petition to defer the construction of any public improvement required under these regulations is granted by the city, the property

owner/developer shall deposit in escrow his share of the costs (in accordance with article XII of this chapter) of the future public improvements with the city prior to signing of the final plat, or the property owner/developer may execute a separate improvement agreement secured by a cash escrow or, where authorized, a letter of credit guaranteeing completion of the deferred public improvements upon demand of the city.

(Ord. No. 1133, § 1(11-400), 3-22-94)

Sec. 84-474 Building construction and occupancy of buildings and property

(a) Plat and public improvement requirements prior to building construction. No construction of any building or structure shall commence on any lot or building site unless a building permit has been issued and the lot or site has been officially recorded by a final plat approved by the city and all public improvements as required for final plat approval have been completed, except as permitted below.

(1) Building permits may be issued for nonresidential and multifamily (apartments) development provided that a preliminary plat is approved by the city and construction plans have been released by the city engineer. Building construction will not be allowed to surpass the construction of fire protection improvements.

(2) The city engineer may authorize residential building permits for a portion of a subdivision, provided that a preliminary plat has been approved and all public improvements have been completed for that portion of the development, including but not limited to those required for fire and emergency protection. Notwithstanding, no lot may be sold or title conveyed until a final plat approved by the city has been recorded.

(3) Conditional building permits, conditional occupancy permits and temporary utility service may be permitted by the administrator in accordance with section 84-411(c)(5).

(b) Plat and public improvements required prior to occupancy. No building or property shall be occupied or used unless a certificate of occupancy is first issued and all subdivision improvements have been completed and a final plat approved by the city has been recorded. Notwithstanding the above, the administrator may authorize the occupancy of a structure provided that an agreement providing cash escrow, a letter of credit, or other sufficient surety is approved by the city for the completion of all remaining public improvements.

(Ord. No. 1133, § 1(11-500), 3-22-94)

Secs. 84-475–84-499 Reserved

ARTICLE XII. PARTICIPATION AND ESCROW REQUIREMENTS

Sec. 84-500 Participation policies

(a) City's share of improvement costs. The city shall participate in the costs of public

improvements which are not for the primary benefit of the development and which have been oversized to serve developments other than for which the plat has been submitted for approval and as required by the city, only to the extent and according to the standards stated in this article and pursuant to the procedures herein set forth and only if an improvement agreement is entered into between the city and owner as provided in these regulations which conforms to the requirements of Article 2368a Section 2c, Vernon's Annotated Civil Statutes, as amended, and as later codified in the local government code.

(b) Owner's responsibility.

(1) The property owner/developer shall be responsible for the entire costs of designing and installing all public improvements which primarily serve the subdivision or addition. Facilities required by these regulations, unless listed in section 84-501 shall be considered as primarily serving the subdivision or addition unless otherwise determined by the city.

(2) The property owner/developer shall also be responsible for its share of the costs of oversized or off-site public improvements needed to assure adequacy of public facilities and services for the addition or subdivision, subject to participation and escrow policies contained in this article.

(3) The property owner/developer shall be responsible for extending streets, water, sewer or drainage facilities off-site to the subject property as required by the commission and/or required to ensure adequacy of public facilities.

(4) Should the subdivision or addition abut an existing water or sanitary sewer line installed by someone other than the city, the owner shall pay to the city a "developers liability" charge to be refunded to the original installer of the line, as prescribed in this article.

(5) Should a lift station, either temporary or permanent, be necessary to provide a sanitary sewer service to the subdivision or addition, the property owner/developer shall construct the station and all appurtenances, at his own expense. If and when the lift station is no longer needed, the installation will, unless other provisions are made, remain the property of the city of euless for reuse or disposal. A "developers liability" charge for such lift stations and appurtenances may be established as prescribed in this article.

(Ord. No. 1133, § 1(12-100), 3-22-94)

Sec. 84-501 Facilities eligible for city participation

The city shall participate in the costs of installing public improvements according to the following schedule:

(1) Total reimbursement from city. The city shall reimburse the property owner/developer for 100 percent of the following costs:

a. Costs of paving streets and thoroughfares for the portion of the width of

pavement exceeding 49 feet for internal streets and 33 feet (per side) for perimeter streets. Costs include those for pavement, soil stabilization and excavation.

b. Paving costs for streets and thoroughfares for that portion of the required paving thickness exceeding eight inches of concrete pavement.

c. Costs of that portion of grade-separated intersections which require paving in excess of 49 feet in width.

d. Costs of installing conduit for traffic signals along minor arterials or larger thoroughfares.

e. A portion of the costs of all water or sanitary sewer pipelines larger than 12 inches, subject to the provisions of this article. City participation shall be based upon the difference in cost between a standard 12-inch diameter pipeline and the size pipeline actually installed, including embedment, manholes, special fittings and other appurtenances necessary for complete sanitary sewer pipeline installation.

(2) Reimbursement from city at 25 percent. The city shall reimburse the property owner/developer 25 percent of the following costs:

a. Drainage structures, crossing streets associated with residential developments, with an opening larger than that of a double 72-inch pipe culvert. The cost of the structure shall be based on a standard, basic culvert or bridge including rip-rap, if required by the city engineer, for erosion control.

b. That portion of storm sewers, for residential developments, exceeding 72 inches in diameter.

(3) Reimbursement from city at ten percent. The city shall reimburse the property owner/developer ten percent of the following costs:

a. Drainage structures, crossing streets associated with nonresidential developments, with an opening larger than that of a double 72-inch pipe culvert. The cost of the structure shall be based on a standard, basic culvert or bridge including rip-rap, if needed, for erosion control.

b. That portion of storm sewers, for nonresidential developments, exceeding double 72 inches in diameter.

(Ord. No. 1133, § 1(12-200), 3-22-94)

Sec. 84-502 Limitation and exceptions

(a) Notwithstanding section 84-501, the city shall not participate in the following costs:

(1) Those portions of the costs of any public improvements not expressly described in

section 84-501.

(2) Costs of clearing and grubbing for streets and thoroughfares.

(3) Costs of constructing streets built wider than called for in the thoroughfare plan.

(4) Costs of lights, traffic-control devices, decorative finishes or other similar expenses, unless required by the city engineer.

(5) Costs of pipe headwalls, regardless of pipe size, or the costs of retention/detention ponds or slope protection, except rip-rap under a bridge.

(b) When reimbursing the property owner/developer pursuant to this article, the city of euless shall pay a maximum of six percent of the city's participation cost for engineering fees, which includes surveying, construction staking and supervision, and the city shall not be responsible for any other incidental expenses or costs.

(Ord. No. 1133, § 1(12-300), 3-22-94)

Sec. 84-503 Procedures for city participation

(a) Definitions. For purpose of article XII, the following terms shall have the following meanings:

(1) *Contiguity* means that the reimbursable improvements are within the boundaries of, or abutting the perimeter of, a developed subdivision or addition.

(2) *Developed subdivision or addition* means property for which a final plat has been filed for record in the county in which the property is located, and the public improvements required by the city have been installed by the property owner/developer and have been accepted by the city.

(b) Application for participation. In order to initiate a reimbursement request, the owner must establish a front foot oversize cost for the reimbursable public improvements. Requests for reimbursement to the owner of cost of oversize paving, drainage, water and sanitary sewer mains shall include the owner's name and mailing address. The request must include as-built drawings showing the reimbursable items, a copy of the contractor's bid for construction, final payment with quantities and unit costs, oversize calculations for all reimbursement items, and a project location map.

(c) Precondition to processing request. Participation requests will be processed after the public improvements are accepted by the city. Reimbursement requests for on-site oversizing will be processed in the order of their receipt and subject to city council approval as appropriate. Requests exceeding funds available shall be scheduled for payment as a part of the next year's capital improvements program, subject to available funding. However, all oversize participation shall be refunded no later than five years following the date of final acceptance of the public infrastructure improvements. In the case of off-site public improvements, participation will be processed after a development is accepted which contains or abuts the off-site improvements. All participation will be made in accordance with section 84-503(d).

(d) City engineer determination. The city engineer shall determine the city's participation in the cost of public improvements, in accordance with the criteria in section 84-500 through 84-502. Payments shall be allocated to a development on a front foot basis and shall be made as follows:

(1) As property is platted and developed adjacent to the off-site public infrastructure improvements, the city will reimburse oversize costs for that portion contiguous to the property. Oversize costs will be reimbursed to the initial developer after final acceptance by the city of the public improvements. Oversize reimbursement will not be made with filing of a conveyance plat.

(2) Reimbursement funds for the city's share of the public infrastructure improvements will be as scheduled in the annual capital improvements program. However, all oversize participation shall be refunded no later than five years following the date of final acceptance of the public infrastructure improvements.

(e) Funding. The city will annually prepare a capital improvement program, a component of which will generally identify funds for payment of oversize participation. Funds will be designated individually from the appropriate source for both street and drainage and water and wastewater projects. Requests in excess of available funding will be deferred for future allocations.

(Ord. No. 1133, § 1(12-400), 3-22-94)

Sec. 84-504 Escrow policies and procedures

(a) Deposit with city. Whenever the city agrees to accept escrow deposits in lieu of construction by the owner of the property under these regulations, the property owner/developer shall deposit an amount equal to his share of the costs of design and construction in escrow with the city. Such amount shall be paid prior to release of construction plans. In lieu of such payment at such time, the city may permit the property owner/developer to contract with the city and shall agree in such contract that no building construction shall commence on any lot included within said plat, or increment thereof, until the full amount of the escrow is paid, or a pro rata part thereof for the full increment if developed incrementally. The obligations and responsibilities of the property owner/developer shall become those of property owner/developer's transferees, successors and assigns; and the liability therefor shall be joint and several.

(b) Determination of escrow amount. The amount of the escrow shall be determined by using the average of the comparable bids awarded by the city in the preceding six months or, if none exist, then in the preceding year or, if none exists current market value of construction as determined by an estimate by the city engineer. Such determination shall be made as of the time the escrow is due here under.

(c) Refund. If any street or roadway for which escrow is deposited for, is constructed, or is reconstructed by another governmental authority at no cost to the city, the escrowed funds and accrued interest shall be refunded to the property owner/developer after completion and acceptance of the public improvements. In the event that a portion of the cost is borne by the

city and the other portion of the cost by another governmental authority, the difference between the owner's actual proportionate cost and the escrowed funds, including accrued interest, if any, shall be refunded after completion and acceptance of the improvements.

(d) Interest limitation. If money is refunded within six months of deposit, only the principal will be refunded. Monies returned after this date will be refunded with interest accrued, calculated at one percent less than the rate of actual earnings.

(Ord. No. 1133, § 1(12-500), 3-22-94; Ord. No. 1234, § 1, 5-27-97)

Sec. 84-505 Payment of fees, charges, and assessments

As a condition of plat approval, the property owner/developer shall pay all fees, charges and assessments required to assure adequacy of public facilities to the subdivision or addition, as may be imposed under these or other regulations of the city.

(Ord. No. 1133, § 1(12-600), 3-22-94)

CHAPTER 85
RESERVED

CHAPTER 86
UTILITIES*(85)

ARTICLE I. IN GENERAL

Sec. 86-1 Rights-of-way and easement usage requirements

No person shall commence or continue with the construction, installation, or operation of facilities within rights-of-way and publicly dedicated easements in the city except as provided by the ordinances of the city and the directives of the public works department. All construction activity in city rights-of-way and easements will be in accordance with this chapter.

(1) Registration and construction permits.

a. Registration. In order to protect the public health, safety and welfare, all users of the city rights-of-way and easements will register with the city. Registration and permits will be issued in the name of the person who will own the facilities. Registration must be renewed every five years. For utilities with a current franchise or license, the franchise or license will be evidence of renewal. If a registration is not renewed and subject to 60-day written notification to the owner, in addition to constituting a violation hereof for which the user shall be subject to citation and fine as provided in subsection (9) below, the city shall cease to issue permits to such user until the registration is renewed. When any

information provided for the registration changes, the user will inform the city of the change no more than 30 days after the date the change is made. Information provided in applications for construction permits shall constitute notice of any changes in the registration information for the user. Registration shall include:

1. The name of the user of the right-of-way;

2. The names, addresses, and telephone numbers of people who will be contact person(s) for the user;

3. The name, address, and telephone number of any contractor or subcontractor, if known, who will be working in the right-of-way on behalf of the user;

4. The name(s) and telephone number of an emergency contact who shall be available 24 hours a day;

5. Proof of insurance and bonds;

   (i) An applicant shall obtain and maintain insurance in the following amounts with a company authorized to do business in the State of Texas acceptable to the city:

TYPE OF INSURANCE	**LIMIT (in $ millions)**
General Liability (including contractural liability) written on an occurrence basis	•General aggregate 2
	•Prod./Comp. Op. Agg. 2
	•Personal & Adv. Injury 1
	•Each Occurrence 1
Automobile Liability, including any auto, hired autos and nonowned autos	•Combined single limit 1
Excess liability, umbrella form	•Each occurrence 2
	•Aggregate 2
Worker's compensation and employer's liability	•Each accident .5
	•Disease-policy limit .5
	•Disease-Each employee .5

   (ii) The city reserves the right to review the insurance requirements during the effective period of any franchise or municipal consent agreement, and to reasonably adjust insurance coverage and limits when the city manager determines that changes in statutory law, court decisions, or the claims history of the industry or the provider require adjustment of the coverage. For purposes of this section,

the city will accept certificates of self-insurance issued by the State of Texas or letters written by the applicant in those instances where the state does not issue such letters, which provide the same coverage required herein. However, for the city to accept such letters, the applicant must demonstrate by written information that it has adequate financial resources to be a self-insured entity as reasonably determined by the city, based on financial information requested by and furnished to the city.

(iii) Each policy must include a cancellation provision in which the insurance company is required to notify the city in writing, not fewer than 30 days before canceling, failing to renew, or reducing policy limits. Each policy shall provide that notice of claims shall be provided to the city manager by certified mail.

(iv) The applicant shall file the required original certificate of insurance prior to any commencement of work. The certificate shall state the policy number; name of insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts. The certificate shall name the city and its officers, employees, board members and elected representatives as additional insureds for all applicable coverage. The city may request the deletion, revision or modification of particular policy terms, conditions, limitations or exclusions, unless the policy provisions are established by law or regulation binding the city, the applicant or the underwriter. If the city requests a deletion, revision or modification, the applicant shall exercise reasonable efforts to pay for and to accomplish the change.

(v) Applicant shall obtain and maintain, at its sole cost and expense, and file with the city secretary, a corporate surety bond in the amount of $100,000.00 both to guarantee timely construction and faithful adherence to all requirements of this section. The bond amount may be reduced to $50,000.00 after a period of two years provided applicant has complied with all terms and conditions herein. The bond shall contain the following endorsement: “It is hereby understood and agreed that this bond may not be cancelled by the surety nor any intention not to renew be exercised by the surety until 30 days after receipt by the city of such written notice of such intent.” The bond shall provide, but not be limited to, the following condition: There shall be recoverable by the city, jointly and severally from the principal and the surety, any and all damages, loss or costs suffered by the city resulting from the failure of the applicant to satisfactorily construct facilities and adherence to all the requirements of this ordinance. The rights reserved to the city with respect to the bond are in addition to all other rights of the city, whether reserved by this section, or authorized by law; and no action, proceeding or exercise of a right with respect to such bond

shall affect any other rights the city may have.

(vi) The city manager or his designee may waive or reduce the above requirements, taking into consideration both that the applicant has furnished the city with reasonable documentation to evidence adequate financial resources substantially greater than the insurance and bonding requirements, and has demonstrated in prior right-of-way construction activity, prompt resolution of any claims and substantial compliance with all required applicable codes and ordinances.

(vii) The above financial and insurance requirements may be met by applicants with a current franchise or license and applicants governed by Chapter 283 of the Texas Local Government Code if the current franchise, license or statutory indemnity adequately provides for insurance or bonds or provides an indemnity in favor of the city.

b. Construction permits.

1. Permit applications are required for construction or installation of new, replacement or upgraded facilities in rights-of-way and easements, whether aerial or underground, except as provided herein. The permit will be in the name of the person who will own the facilities to be constructed. The permit must be completed and signed by a representative of the owner of the facilities to be constructed.

(i) Emergency responses related to existing facilities may be undertaken without first obtaining a permit; however the public works department should be notified in writing as promptly as possible, though in no event later than two business days of any construction related to an emergency response and shall as soon as reasonably practicable apply for and obtain the permits required herein.

(ii) The phrase “construction or installation of new, replacement or upgraded facilities” does not include repair or maintenance of existing facilities unless such repair or maintenance requires the following: the breaking of pavement; the closure of a nonresidential traffic lane, excavation or boring.

2. The permit shall state to whom it is issued, location of work, location of facilities, dates and times work is to take place and any other conditions set out by the director of public works or designee.

3. The person requesting a permit will provide the director of public works or designee with documentation describing:

(i) The proposed, approximate location and route of all facilities to be

constructed or installed and the applicant's plan for right-of-way construction.

(ii) Engineering plans which shall be submitted on a scale not to exceed one inch equals 100 feet unless otherwise approved by public works department.

(iii) Detail or description of the location of all rights-of-way and utility easements which applicant plans to use.

(iv) Detail or description of all existing city utilities in relationship to applicant's proposed route.

(v) Detail or description of what applicant proposes to install.

(vi) Detail of plans to remove and replace asphalt or concrete in streets (include city standard construction details for pavement patching types A and/or B).

(vii) Drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth, when available.

(viii) Handhole and/or manhole typical of type of manholes and/or handholes applicant plans to use or access.

(ix) Complete legend of drawings submitted by applicant, which may be provided by reference to previously submitted documents on file with the city.

(x) Three sets of engineering plans must be submitted with the permit application.

(xi) The name, address, and phone numbers of the contractor or subcontractor who will perform the actual construction, including the name and telephone number of an individual with the contractor who will be available at all times during construction. Such information, if known, shall be required prior to the commencement of any work.

(xii) The construction and installation methods to be employed for the protection of existing structures, fixtures, and facilities within or adjacent to the right-of-way, and the estimated dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the director of public works or designee.

(xiii) A statement that the requirements of subsection (1)a.5. are met.

4. All construction and installation in the rights-of-way and easements shall be in accordance with the permit for the facilities. The director of public

works or designee shall be provided access to the work and to such further information as may reasonably be required to ensure compliance with the permit.

5. A copy of the construction permit and approved engineering plans shall be maintained at the construction site and made available for inspection by the director of public works or designee at all times when construction or installation work is occurring.

6. All construction or installation work authorized by permit must be completed in the time specified in the construction permit. If the work cannot be completed in the specified time periods, the permittee may request an extension from the director of public works or designee. The director of public works or designee will use best efforts to approve or disapprove a request for permit as soon as possible. If no construction has commenced under a permit within the time specified, and any extensions, the permit becomes null and void and a new permit is required before construction may be performed.

7. A copy of any permit or approval issued by federal or state authorities for work in federal or state right-of-way located in the city shall be provided, if requested by the public works department.

8. A request for a permit must be submitted at least five working days before the proposed commencement of work in the request, unless waived by the director of public works or designee. Permit requests for large projects may require additional review time.

9. Requests for permits will be approved or disapproved by the director of public works or designee within a reasonable time of receiving all the information. The director of public works or designee will use best efforts to approve or disapprove a request for permit as soon as possible.

10. The public works department or the applicant can request a pre-construction meeting with the permittee and their construction contractor.

(2) Construction standards.

a. Department of public works must be notified 24 hours in advance that construction is ready to proceed by either the right-of-way user, their contractor or representative. At the time of notification, the right-of-way user will inform the public works department of the number (or other information) assigned from the one-call system.

b. All construction shall be in conformance with all city codes and standard details for construction and all applicable local, state and federal laws. Backfilling shall meet or exceed city standards for construction within streets.

c. Erosion control measures (e.g. silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins, if applicable.

d. Lane closures on major thoroughfares may occur only between 8:30 a.m. and 4:00 p.m. unless the public works department grants prior approval. Barricades and signage shall be installed in accordance with the Texas Manual of Uniform Traffic-control Devices.

e. Without affecting the legal relationship between permittee and its contractors, permittees are responsible for the workmanship and any damages by its contractor or subcontractors. Permittees are responsible for maintaining jobsite and roadway cleanliness. A responsible representative of the permittee will be available to the public works department at all times during construction.

f. Permittee shall comply with city, state and federal guidelines applicable to permittee.

g. Permittee, contractor or subcontractor will notify the public works department immediately of any damage to other utilities, either city or privately owned.

h. It is the city's policy not to cut streets or sidewalks; however, when a street or sidewalk cut is required, prior approval must be obtained from the public works department and all requirements of the public works department shall be followed. Repair of all street and sidewalk removals must be made promptly to avoid safety hazards to vehicle and pedestrian traffic.

i. Installation of facilities must not interfere with city utilities, in particular gravity dependent facilities.

j. New facilities must be installed to a depth in conformance with applicable state and federal guidelines. In the absence of state and federal guidelines, new facilities shall be installed to a depth approved by the director of public works.

k. New facilities, including new service drops, shall be placed underground unless the facility owner, developer or affected property owner has shown to the satisfaction of the director of public works that this requirement is not technically, environmentally or economically feasible. All appurtenances and equipment and, if permitted, above-ground facilities shall be placed along rear lot or tract lines unless the facility owner, developer or affected property owner has shown to the satisfaction of the director of public works that such placement is not feasible. In the event there is a difference in cost associated with utility locations, i.e.: (front lot vs. rear lot), such cost shall be borne by the developer or property owner requesting such service. Furthermore, electrical transformers on rear lot sites must be accessible by a seven-foot wide dedicated utility easement extending parallel with the side yard from front of lot to back of lot. Fire hydrants and traffic signal controllers are exempted from the rear lot or tract line requirement with passage of this section. City will work diligently with facility owner, developer and affected property owners during the

zoning and platting processes of new subdivisions to ensure reasonable equipment access to facilities along rear lot or tract lines will be available. When facilities are to be placed along rear lot or tract lines, before construction of facilities commences, the easement shall be reduced to final grade, at developer's sole cost and expense. Additionally, if such easement is located within a floodplain, the entire surface of the easement shall be raised above the floodplain elevation, at developer's sole cost and expense, before construction of the facilities commences. The necessity for removal of minimal fencing and/or landscaping within easements to permit the replacement of facilities, appurtenances, and equipment is considered to be within the definition of reasonable access. Where no such access can be made available, facility owner and developer shall make reasonable efforts to place above-ground facilities, appurtenances and equipment in the least visible areas of the street rights-of-way and street yards that are consistent with reasonable city standards and as approved by the director of public works. Sight visibility easements and horizontal clear triangles are not appropriate locations for the placement of above-ground facilities, appurtenances and equipment as they would create safety concerns by blocking or impairing the visibility of vehicular traffic.

l. All directional boring shall have locator place bore marks and depths while bore is in progress. Locator shall place a mark at each stem with paint dot and depth at least every other stem.

m. The working hours in the rights-of-way are 7:00 a.m. to 6:00 p.m., Monday through Friday. Work that needs to be performed after 6:00 p.m. Monday through Friday must be approved in advance. Any work performed on outside these times must be approved 24 hours in advance by the public works department. Directional boring is permitted only Monday through Friday 7:00 a.m. to 6:00 p.m., unless approved in advance. No work will be done, except for emergencies, on city holidays. All work shall be performed in compliance with city noise and nuisance code requirements.

n. Contractors will be responsible for physically verifying the location both horizontal and vertical of all potentially affected facilities, whether by pot holing, hand digging or other method approved by the public works department prior to any excavation or boring with the exception of work involving lane closures, as discussed above.

o. Placement of all manholes and/or hand holes must be approved in advance by the public works department. Handholes or manholes will not be located in sidewalks, unless approved by the director of public works or designee.

p. Locate flags shall not be removed from a location while facilities are being constructed.

q. Construction that requires pumping of water or mud shall be contained in accordance with federal and state law.

r. Permittee may trim trees in or over the rights-of-way and easements for the safe and reliable operation, use and maintenance of its facilities. All trimming in rights-of-way and easements shall be in accordance with guidelines established by the National Arborist Association and International Society of Arboriculture, and should by done in such a manner to preserve as much vegetation and natural shape of trees as reasonably possible, and still accomplish a safe and effective tree trimming program. Reasonable efforts shall be made to contact affected property owners prior to necessary tree trimming operations. Should utility provider or entity, its contractor or agent, fail to remove tree trimmings within 24 hours after completion of a trimming project, unless a longer period is required for extraordinary conditions and conditions beyond the control of provider, the city may remove the trimmings or have them removed, and upon receipt of a bill from the city, the utility provider or entity shall reimburse the city for all costs incurred within 30 working days. Utility provider or entity shall not be responsible for tree trimming or removal above the work required to maintain or restore utility service.

s. The permittee and any person responsible for construction shall protect the public right-of-way surface, and all existing facilities and improvements both above and below ground from excavated materials, equipment operations, and other construction activities. Particular attention must be paid to ensure that no excavated material or contamination of any type is allowed to enter or remain in a water or wastewater main or access structure, drainage facility, or natural drainage feature.

(3) "As-built" plans.

a. Right-of-way users will provide the director of public works or designee with "as-built" plans within 90 days of completion of facilities in the right-of-way. The plans shall be provided to the city in a format used in the ordinary course of user's business to the extent they are prepared in the ordinary course of business, but excluding customer specific, proprietary or confidential information and as reasonably prescribed by the city, and as allowed by law.

b. The director of public works or designee for good cause may waive this requirement, or portions of this requirement. Determination of good cause shall include an assessment of 1) the right-of-way user's ability to feasibly and economically remove customer specific, proprietary or confidential information from its plans and 2) the right-of-way user's standard business practice relative to the preparation of construction and as-built plans. The director of public works or designee may reassess waivers from time to time to determine whether right-of-way user's ability to provide as-built plans has changed.

(4) Conformance with public improvements.

a. Whenever, by reasons of widening or straightening of streets, water or wastewater main projects, traffic signal projects, storm drainage projects or any other public works projects (e.g. sidewalk ADA ramp installations, storm drain upgrades, water main upgrades, waste water main upgrades, etc.) it shall

be deemed necessary by the governing body of the city to remove, alter, change or conform the underground or overhead facilities of a right-of-way user to another part of the right-of-way, such alterations shall be made by the owner of the facilities at their expense, unless provided for by state law, or an existing franchise expires or is otherwise terminated.

b. The city shall give a right-of-way user written notice as to when a right-of-way user's facilities must be relocated, removed, altered or changed due to construction of a city project. It is strongly recommended that right-of-way users and the city collaborate on projects via "utility coordination meetings". The city director of public works or his/her designee shall endeavor to develop the scope and detail of the proposed city project and notify right-of-way users of a utility coordination meeting. Right-of-way users shall work in conjunction with the city to develop a schedule for the relocation, removal, alteration or change of a right-of-way user's facilities based on the nature and extent of the city project.

c. Upon development of an acceptable schedule to relocate, remove, alter or change a right-of-way user's facilities, the right-of-way user shall enter into a written "memorandum of understanding", listing the project details and proposed completion dates with the city to accomplish the relocation, removal, alteration, and changes to the right-of-way user's facilities. If the right-of-way user fails to properly relocate, remove, alter or change its facilities within the timeframe contained in the memorandum, has failed to attend utility coordination meetings, failed to notify the city of schedule changes beyond the right-of-way user's control or other circumstances, the right-of-way user shall potentially be liable for any and all damages incurred by the city that are attributable to the right-of-way user's failure to relocate, remove, alter or change its facilities within the timeframe contained in the memorandum.

d. In as much as a right-of-way user has failed to comply with subsection c. and the city upon finding of fact has determined a right-of-way user is liable; the city may file written claim against a right-of-way user for restitution of the dollar amount associated with the damages incurred.

e. The city or its designee shall act as project manager for the purpose of coordinating the conformance of facilities located in the public rights-of-way to public improvement projects. The project manager shall have the responsibility to establish utility coordination meetings, provide the scope and detail of the proposed city project, manage the relocation process, establish a reasonable schedule for relocations, and communicate with and among right-of-way users of the public right-of-way. In the event that the project manager fails to satisfactorily execute the duties as outlined in subsection d), the city shall hold the user's of the public right-of-way harmless for any and all damages incurred by the city that may be attributable to the right-of-way user's failure to relocate, remove, alter or change its facilities.

f. If no acceptable schedule for the relocation, removal, alteration or change of a right-of-way user's facilities can be determined between the director of public

works or his/her designee and the right-of-way user, the city may send written notice to the right-of-way user directing the right-of-way user to relocate, remove, alter or change its facilities within a reasonable time frame with not less than 60 days prior written notification. Pursuant to written notification, the right-of-way user shall have 120 days to accommodate a city project.

g. The right-of-way user shall not be held responsible for any delay or failure in performance of any part of its obligations to relocate, remove, alter or change its facilities if the delay or failure is caused by circumstances outside the reasonable control of the right-of-way-user, including without limitation (1) the failure of the city or another right-of-way user to move or adjust its facilities as necessary to allow timely completion of such right-of-way users relocation, removal, alteration or change of its facilities under the project, or (2) fire, flood, storm, or other weather conditions, work stoppage or other strike, or act of God or force majeure event.

(5) Improperly installed facilities.

a. Any person doing work in the city right-of-way shall properly install, repair, upgrade and maintain facilities.

b. Facilities installed after the effective date of this chapter shall be considered to be improperly installed, repaired, upgraded or maintained if:

1. The installation, repairs, upgrade or maintenance endangers people;

2. The facilities do not meet the applicable city codes;

3. The facilities are not capable of being located using standard practices;

4. The facilities are not located in the proper place at the time of construction in accordance with the directions provided by the public works department.

(6) Restoration of property.

a. Users of the right-of-way shall restore property affected by construction of facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work.

b. Restoration must be to the reasonable satisfaction of the public works department and the property owner. The restoration shall include, but not be limited to:

1. Replacing all ground cover with the type of ground cover damaged during work either by sodding or seeding, as directed by the public works department.

2. Installation of all manholes and handholes, as required:

3. Backfilling all bore pits, potholes, trenches or any other holes shall be filled in or covered daily, unless other state or federal safety requirements are followed.

4. Leveling of all trenches and backhoe lines;

5. Restoration of excavation site to city specifications; and

6. Restoration of all landscaping, ground cover, and sprinkler systems.

c. All locate flags and information signs shall be removed during the clean up process by the permittee or contractor at the completion of the work.

d. Restoration must be made in a timely manner as specified by approved public works schedules and to the satisfaction of director of public works or designee. If restoration is not satisfactory and performed in a timely manner all work in progress, except that related to the problem, including all work previously permitted but not complete may be halted and a hold may be placed on any permits not approved until all restoration is complete.

(7) Revocation or denial of permit. If any of the provisions of this chapter are not followed, a permit may be revoked by the director of public works or designee. If a person has not followed the terms and conditions of this ordinance in work done pursuant to a prior permit, new permits may be denied or additional terms required.

(8) Appeal from denial or revocation of permit. Appeal from denial or revocation of permit or from the decision of the director of director of public works or designee shall be to the city council. Appeal shall be filed with the city secretary within 15 days.

(9) Violation of ordinance.

a. A person commits an offense if they:

1. Perform, authorize, direct, or supervise construction without a valid permit issued under this section;

2. Fail to comply with restrictions or requirements of a permit issued under this section;

3. Fail to comply with a lawful order or regulation of the director issued pursuant to this section; or

4. Violate any other provision of this section.

b. A person commits an offense if, in connection with the performance of construction in the public right-of-way, they:

1. Damage the public right-of-way beyond what is incidental or necessary to the performance of the construction:

2. Damage public or private facilities within the public right-of-way;

3. Fail to immediately clear debris associated with the construction from a public right-of-way after the construction is completed; or

4. Fail to stabilize any disturbed area from erosion within 14 days after construction is completed, unless an alternative timeframe is approved by the director of public works or designee.

c. A culpable mental state is not required to prove an offense under this chapter. A person who violates a provision of this section is guilty of a separate offense for each day or portion of a day during which the violation is committed, continued, authorized, or directed. An offense under subsection (9)b.3. is punishable by a fine of not less than $500.00 or more than $2,000.00. Any other offense under this section is punishable by a fine of $500.00.

d. This section may be enforced by a civil court action in accordance with state or federal law, in addition to any other remedies, civil or criminal, the city has for a violation of this section.

e. Prior to initiation of civil enforcement litigation, the permittee, or any other person who has violated a provision of this section, shall be given the opportunity to correct the violation within a timeframe specified by the director of public works or designee. This subsection does not prohibit the director of public works, designee, or the city from taking enforcement action as to past or present violation of this section, notwithstanding their correction.

f. If a permittee has been convicted of an offense under this section in municipal court, no additional permits will be granted to the public service provider and/or the permittee until the offense has been corrected and any direct or indirect costs incurred by the city have been reimbursed.

(Ord. No. 1659, § I, 10-6-04)

Sec. 86-2 Indemnity

(a) Except as to certified telecommunications providers, each person placing facilities in the public right-of-way shall promptly defend, indemnify and hold the city harmless from and against all damages, costs, losses or expenses:

(1) For the repair, replacement, or restoration of city property, equipment, materials, structures, and facilities, which are damaged, destroyed or found to be defective as a result of the person’s acts or omissions; and

(2) From and against any and all claims, damages, suits, causes of action, and judgments for:

a. Damage to or loss of the property of any person (including, but not limited to, the person, its agents, officers, employees and subcontractors, city's agents, officers and employees, and third parties); and/or

b. Death, bodily injury, illness, disease, loss of services, or loss of income or wages to any person (including, but not limited to, the agents, officers and employees of the person, person's subcontractors and city, and third parties), arising out of, incident to, concerning or resulting from the negligent or willful act or omissions of the person, its agents, employees, and/or subcontractors, in the performance of activities pursuant to this ordinance.

(b) This indemnity provision shall not apply to any liability resulting from the negligence of the city, its officers, employees, agents, contractors, or subcontractors.

(c) The provisions of this indemnity are solely for the benefit of the city and are not intended to create any rights, contractual or otherwise, to any person or entity.

(d) A permittee who is a certified telecommunication provider as defined in V.T.C.A., Local Government Code, chapter 283, as amended, shall give the city the indemnity provided in V.T.C.A., Local Government Code, § 283.057, as amended.

(Ord. No. 1659, § III, 10-6-04)

Secs. 86-3–86-25 Reserved

ARTICLE II. WATER AND SANITARY SEWER SYSTEMS

Division 1. Generally

Sec. 86-26 Rules, regulations, policies and procedures

(a) The rules, regulations, policies and procedures for the operation, maintenance, improvements and extensions of the municipally owned water, reclaimed water and sewerage systems on file in the office of the city secretary are hereby adopted and shall be enforced by the officers of the city.

(b) Sections 3(1) and 3(b) of the rules, regulations, policies and procedures for the operation, maintenance, improvement and extension of the municipally owned water and sewerage system as adopted in subsection (a) of this section are hereby amended by the adoption of the revised city-developer agreement, developers' cash escrow, contractors' performance, payment and maintenance bonds, along with contracts and forms, copies of which revised forms are on file in the office of the city secretary and are by reference incorporated in this section. Such forms adopted hereby shall be those forms required by the city in utility extension procedures.

(c) Outdoor watering, using city provided potable water, through sprinklers or irrigation systems is prohibited between 10:00 a.m. and 6:00 p.m. each day of the week year round. Home foundations, lawns, and new landscape plantings may be watered by handheld hose,

drip irrigation or a soaker hose.

(d) If, reclaimed water is made available by the city to a property within the city, the owner of such property shall be required to utilize reclaimed water for all landscape irrigation purposes, except for residential irrigation of single-family homes, in accordance with all applicable local, state, and federal regulations. The owner of said property shall construct, connect to, and use reclaimed water as set forth in Chapter 86 of the City of Euless Code of Ordinances. Use of reclaimed water shall provide an exemption from the requirements of drought restrictions defined in section 86-36.

(Code 1974, § 16-1; Ord. No. 1777, § I, 6-26-07; Ord. No. 1923, § 3, 8-30-11; Ord. No. 2003 , § 3, 8-27-13; Ord. No. 2023 , § 2, 2-25-14)

Sec. 86-27 Location changes

Customers moving or changing locations must pay all debts from previous addresses before receiving service at new locations. The deposit at an address cannot be changed to another name for the purpose of receiving service without paying outstanding debts.

(Code 1974, § 16-2)

Sec. 86-28 Theft of city services

It will be considered theft of city services to take water from the water system, or dump anything into the city sanitary sewer system unless all requirements of this chapter pertaining to city services are complied with.

(Code 1974, § 16-3)

Cross reference–Miscellaneous offenses, ch. 50.

Sec. 86-29 Mayor’s emergency power

If deficient water pressure or deficient water reserves occur, the mayor is authorized and empowered without further council action to declare by proclamation any measures deemed necessary to restore water pressure or reserves, including a total and complete prohibition of all outside water usage.

(Code 1974, § 16-4)

Sec. 86-30 Service connections

Hotels, motels, office buildings, tourist courts, trailer parks, duplexes and apartment buildings shall be allowed more than one unit per water meter. All other customers must have one meter and one sewer connection per residence, business or consumer.

(Code 1974, § 16-5)

Sec. 86-31 Billing; late payment penalties

(a) Each month's charges shall be due and payable on or before the 20th day after the date of the bill. If such charges are not paid within 25 days from the date of bill, a penalty shall be added in the amount of ten percent of the past due amount.

(b) If the bill is not paid or other disposition made within 15 days of the date of the billing, water service is subject to termination.

(c) Receipt of a check that is dishonored shall be deemed nonpayment, and there shall be an additional bad check service charge.

(d) Fire hydrant meters shall be returned to the city water billing office at 201 N. Ector Drive, for reading prior to the 20th of each month. Failure to return fire hydrant meters for reading will result in a nonrefundable service charge as established in chapter 30, section 30-34.

(Code 1974, § 16-6; Ord. No. 1091, § 1, 9-8-92; Ord. No. 1237, § 1, 8-12-97; Ord. No. 1470, § 1, 6-26-01)

Cross reference–Fees, ch. 30; delinquent accounts, § 30-34.

Sec. 86-32 Delinquency and service discontinuance procedure; imposition of lien for delinquent charges

(a) If any portion of a month's charges remain unpaid 36 days after the billing date, a tag will be delivered to the service address notifying the customer of delinquent charges. If the charges are not paid prior to 12:00 noon the following day, service at the delinquent address will be discontinued. A service charge will be assessed as established in chapter 30, section 30-34 for delivery of the delinquent tag. An additional deposit will be required for those accounts that have had service terminated for nonpayment as established in chapter 30, section 30-34. Service shall not be continued or reconnected until all current and delinquent charges have been paid.

(b) The city manager shall appoint a city utility hearing officer who shall serve in that capacity at the pleasure of the city manager. The city utility hearing officer shall be empowered to resolve billing errors in advance of any scheduled date of service termination. Any user or customer shall be entitled to a pre-termination hearing before the utility hearing officer prior to the cutoff date specified in the delinquent notice. It will be the duty of the utility hearing officer to determine that customers are not overcharged or charged with services not rendered.

(c) A lien is hereby imposed against an owner's property, unless it is a homestead as protected by the Texas Constitution, for delinquent bills for municipal utility service to that property. A homestead is a place of residence owned by the person living there and intended by the owner to be the owner's primary personal residence, indefinitely.

(d) The city's lien shall not apply to bills for service connected in a tenant's name after notice by the property owner to the city that the property is rental property. Such notice shall be in writing and shall not be effective until delivered to the city water billing office. The city's lien also shall not apply to bills for service connected in a tenant's name prior to the effective date of this section.

(e) The city shall perfect its lien by recording in the real property records of Tarrant County, Texas, a "Notice of Lien" containing a legal description of the property and the city's account number under which the delinquent charges were incurred. The city's lien may include penalties, interest and collection costs as provided elsewhere in this chapter or otherwise. The city's lien is inferior to a bona fide mortgage lien recorded before the recording of the city's lien in the real property records, but is superior to all other liens, including previously recorded judgment liens and any liens recorded after the city's lien.

(Code 1974, § 16-7; Ord. No. 1237, § 2, 8-12-97; Ord. No. 1470, § 2, 6-26-01; Ord. No. 1605, § I, 9-23-03; Ord. No. 1881, § 4, 8-31-10)

Sec. 86-33 Sewage service outside city limits

No sewer service shall be provided to any customer outside the city except on specifically expressed consent by the city council.

(Code 1974, § 16-8)

Sec. 86-34 Water or wastewater metering required

All customers connected to the sanitary sewage system who have a source of water supply that is in addition to, or in lieu of, the city water supply must have a meter approved and tested by the city on that source of water supply and the volume charge as set forth in this chapter shall be based on the sum of the volumes delivered by all sources of supply. Such method of volume determination will not be applicable if the customer installs a meter approved by the city on the wastewater produced by the customer before it enters the city sanitary sewer.

(Code 1974, § 16-9)

Sec. 86-35 Penalty for violations of chapter; costs

(a) Civil penalties. Any user who is found to have violated an order of the city council or who willfully or negligently failed to comply with any provision of this article, and the orders, rules, regulations and permits issued hereunder, shall be fined as provided in section 1-12 of this Code for violations of provisions governing public health and sanitation. In addition to the penalties provided herein, the city may recover reasonable attorneys' fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this article or the orders, rules, regulations and permits issued hereunder.

(b) Falsifying information. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article, or wastewater contribution permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine as provided in section 1-12 of this Code for violations of provisions governing public health and sanitation.

(Code 1974, § 16-10; Ord. No. 1077, § XXIII, 5-12-92)

Sec. 86-36 Drought contingency plan

(a) *Introduction*. The purpose of this drought contingency plan is as follows:

(1) To conserve the available water supply in times of drought and emergency.

(2) To protect and preserve public health, welfare, and safety.

(3) To maintain supplies for domestic water use, sanitation, and fire protection.

(4) To minimize the adverse impacts of water supply shortages.

(5) To minimize the adverse impacts of emergency water supply conditions.

(b) *Drought stages–Trigger criteria, actions and termination*. The city manager or his/her designee in consultation with the Trinity River Authority (TRA) will monitor the water supply and shall determine when conditions warrant initiation of each of the following stages:

(1) *Stage 1: water watch*.

a. *Triggering conditions*.

1. Total combined raw water supply in Tarrant Regional Water District (TRWD) western and eastern division reservoirs drops below 75% (25% depleted) of conservation storage.

2. Water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.

3. Water demand is projected to approach the limit of permitted supply.

4. Supply source becomes contaminated.

5. Water supply system is unable to deliver water due to the failure or damage of major water system components.

6. The city manager, or his/her designee, with concurrence of TRA, finds that conditions warrant the declaration of a stage 1 drought.

b. *Terminating conditions*. Stage 1, water watch will be terminated when the total combined raw water supply in TRWD's western and eastern division reservoirs exceeds 95% of conservation storage or remains above 85% for 90 consecutive days, whichever occurs first and/or when the circumstances that caused the initiation of stage 1 no longer prevail, or at the discretion of the city manager, or his/her designee.

c. *Goal for use reduction*. The goal for water use reduction under stage 1, water watch, is to decrease use by five percent. If circumstances warrant, the city manager can set goal for greater water use reduction.

d. *Actions available under stage 1, water watch*. The city manager may order the implementation of any of the actions listed below, as deemed necessary. Measures imposing mandatory requirements on customers require notification to TCEQ.

1. *All water users*.

i. Initiate mandatory restrictions to prohibit non-essential water use as follows:

* Prohibit hosing of paved areas, such as sidewalks, driveways, parking lots, tennis courts, or other impervious surfaces.

* Prohibit hosing of buildings or other structures for purposes other than fire protection.

* Prohibit using water in such a manner as to allow runoff or other waste, including failure to repair a controllable leak within a reasonable period of time after having been given notice to repair such leak.

ii. Prohibit outdoor watering with sprinklers or irrigation systems between 10:00 a.m. and 6:00 p.m. (City requires this restriction year round.)

iii. Limit landscape watering with sprinklers or irrigation systems at each service address to twice per week. (Exceptions: Foundations, new plantings (first year) may be watered on any day by handheld hose, drip irrigation, or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.)

iv. Washing of any motor vehicle, motorbike, boat, trailer, airplane, or other vehicle shall be limited to the use of a handheld bucket or a handheld hose equipped with a positive shutoff nozzle for quick rinses. Vehicle washing may be done at any time on the premises of a commercial carwash or commercial service station. Further, such washing may be exempt from these requirements if the health, safety, and welfare of the public are contingent upon frequent vehicle cleansing, such as garbage trucks and vehicles used to transport food and perishables.

v. Encourage reduction in frequency of draining and refilling swimming pools.

vi. Encourage use of Texas native and drought tolerant plants in landscaping.

vii. Watering of athletic fields (field only, does not include surrounding

landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. A water use management plan must be submitted to and approved by the city detailing a proposed watering plan.

2. *Municipal government*. In addition to actions listed above:

i. Review conditions and problems that caused stage 1.

ii. Increase public education efforts on ways to reduce water use.

iii. Intensify leak detection and repair efforts.

iv. Increase enforcement efforts.

v. Municipal parks and golf courses using potable water restricted to twice per week landscape watering schedule. (Exceptions: Golf courses may water greens and tee boxes without restrictions; foundations, new plantings (first year) may be watered on any day by handheld hose, drip irrigation, or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.)

vi. Reduce non-essential water use. As used herein, non-essential water uses are those that do not have any health or safety impact and are not needed to meet the core function of the agency.

3. *Commercial or industrial*.

i. Limit landscape watering of parks and golf courses using potable water to twice per week. (Exceptions: Golf courses may water greens and tee boxes without restrictions; foundations, new plantings (first year) may be watered up to two hours on any day by handheld hose, drip irrigation, or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.)

ii. Identify and encourage voluntary reduction measures by high-volume water users through water use audits.

iii. Encourage hotels and restaurants to serve drinking water to patrons on an “on demand” basis.

(2) *Stage 2: water warning*.

a. *Triggering conditions*.

1. Total raw water supply in TRWD western and eastern division reservoirs drops below 60% (40% depleted) of conservation storage.

2. Water demand for all or part of the delivery system exceeds delivery capacity because delivery capacity is inadequate.

3. Water demand is projected to approach the limit of permitted supply.

4. Supply source becomes contaminated.

5. Water supply system is unable to deliver water due to the failure or damage of major water system components.

6. The city manager, with concurrence of the TRA, finds that conditions warrant the declaration of a stage 2 drought.

b. *Terminating conditions*. Stage 2, water warning, will be terminated when the total combined raw water supply in TRWD's western and eastern division reservoirs exceeds 75% of conservation storage or remains at or above 70% for 30 consecutive days, whichever occurs first, and/or when the circumstances that caused the initiation of stage 2 no longer prevail, or at the discretion of the city manager.

c. *Goal for use reduction*. The goal for water use reduction under stage 2, water warning, is to decrease use by 10 percent. If circumstances warrant, the city manager can set a goal for greater water use reduction.

d. *Actions available under stage 2, water warning*. The city manager may order the implementation of any of the actions listed below, as deemed necessary. Measures imposing mandatory requirements on customers require notification to TCEQ.

1. *All water users*.

i. Continue actions under stage 1.

ii. Limit landscape watering with sprinklers or irrigation systems at each service address to once per week. (Exceptions: Foundations, new plantings (first year) may be watered on any day by handheld hose, drip irrigation, or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.)

iii. Prohibit use of water for dust control, except as required to protect public health.

iv. Restrict the operation of ornamental fountains or ponds that use potable water except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

v. Encourage the public to wait until the current drought or emergency

situation has passed before establishing new landscaping.

vi. Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. A water use management plan must be submitted to and approved by the city detailing a proposed watering plan.

2. *Municipal government*. In addition to actions listed above:

i. Continue actions under stage 1.

ii. Increase frequency of media releases on water supply conditions.

iii. Further accelerate public education efforts on ways to reduce water use.

iv. Limit landscape watering at municipal parks and golf courses to once every seven days. Greens and tee boxes may be watered as needed to keep them alive, however watering must be done during off-peak hours, before 10:00 a.m. and after 6:00 p.m. (Exceptions: Foundations, new plantings (first year) of shrubs, and trees may be watered on any day by handheld hose, drip irrigation, or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.)

v. Halt non-essential water use. As used herein, non-essential water uses are those that do not have any health or safety impact and are not needed to meet the core function of the agency.

vi. Prohibit wet street sweeping.

3. *Commercial or industrial*.

i. Continue actions under stage 1.

ii. Limit landscape watering of parks and golf courses using potable water to once every seven days. Greens and tee boxes may be watered as needed to keep them alive, however watering must be done during off-peak hours, before 10:00 a.m. and after 6:00 p.m. (Exceptions: Foundations, new plantings (first year) may be watered any day by handheld hose or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.)

(3) *Stage 3: water emergency*.

a. *Triggering conditions*.

1. Total raw water supply in TRWD western and eastern division reservoirs drops below 45% (55% depleted) of conservation storage.

2. Water demand exceeds the amount that can be delivered to customers.

3. Water demand for all or part of the TRWD delivery system exceeds delivery capacity because delivery capacity is inadequate.

4. One or more of TRWD's water supply sources have become limited in availability.

5. Water demand is projected to approach the limit of permitted supply.

6. Supply source becomes contaminated.

7. Water supply system is unable to deliver water due to the failure or damage of major water system components.

8. The city manager, with concurrence of the TRA, finds that conditions warrant the declaration of a stage 3 drought.

b. *Terminating conditions*. Stage 3, water emergency, will be terminated when the total combined raw water supply in TRWD's western and eastern division reservoirs exceeds 60% of conservation storage or remains at or above 55% for 30 consecutive days, whichever occurs first, and/or when the circumstances that caused the initiation of stage 3 no longer prevail, or at the discretion of the city manager.

c. *Goal for use reduction*. The goal for water use reduction under stage 3, water emergency, is to decrease use by 20 percent. If circumstances warrant, the city manager can set a goal for greater water use reduction.

d. *Actions available under stage 3, water emergency*. The city manager can order the implementation of any of the actions listed below, as deemed necessary. Measures imposing mandatory requirements on customers require notification to TCEQ.

1. *All water users*.

i. Continue actions under stage 1 and 2.

ii. Prohibit residential landscape watering, except foundations and trees may be watered for two hours on any day (or on a once per week schedule as set by city government) with a handheld hose, drip irrigation, or a soaker hose.

iii. Prohibit establishment of new landscaping. Variances may be granted for those landscape projects started prior to the initiation of stage 3 drought restrictions. However, variances will not be granted

for the irrigation of new landscape and/or turfgrass installations after the initiation of stage 3 drought restrictions.

iv. Vehicle washing is restricted to commercial carwashes, commercial service stations, or professional washing services only. This includes home and charity carwashing. The washing of garbage trucks and vehicles used to transport food and/or other perishables may take place as necessary for health, sanitation, or public safety reasons.

v. Prohibit the operation of ornamental fountains or ponds that use potable water except where necessary to support aquatic life or where such fountains or ponds are equipped with a recirculation system.

vi. Prohibit the draining, filling, or refilling of swimming pools, wading pools and Jacuzzi-type pools. Existing private and public pools may add water to maintain pool levels.

vii. Watering of athletic fields (field only, does not include surrounding landscaped areas) used for organized sports practice, competition, or exhibition events may occur as necessary to protect the health and safety of the players, staff, or officials present for athletic events. A water use management plan must be submitted to and approved by the city detailing a proposed watering plan.

2. *Municipal government*. In addition to actions listed above:

i. Continue actions under stage 1 and 2.

ii. Implement viable alternative water supply strategies.

iii. Increase frequency of media releases explaining emergency situation.

iv. Reduce municipal water use to maximum extent possible. Restrictions do not apply to locations using treated wastewater effluent for irrigation.

v. Prohibit the permitting of new public and private swimming pools, Jacuzzi-type pools, spas, ornamental ponds and fountain construction. Pools already permitted and under construction may be completely filled with water.

3. *Commercial or industrial*.

i. Continue actions under stage 1 and 2.

ii. Prohibit commercial landscape watering, except foundations and

trees may be watered for two hours on any day (or once per week schedule as set by city government) with a handheld hose, drip irrigation, or a soaker hose. Restrictions do not apply to locations using treated wastewater effluent for irrigation.

iii. Prohibit establishment of new landscaping at commercial locations.

iv. Commercial water users required to reduce water use by a set percentage.

(c) *Procedure for granting variances to the plan*.

(1) The city manager or his designee may grant temporary variances for existing water uses otherwise prohibited under this drought contingency plan to a customer if one or more of the following conditions are met:

a. Failure to grant such a variance would cause an emergency condition adversely affecting health, sanitation, or fire safety for the public or the person requesting the variance.

b. Compliance with this plan cannot be accomplished due to technical, economic or other limitations.

c. Alternative methods that achieve the same level of reduction in water use can be implemented.

(2) Variances shall be granted or denied at the discretion of the city manager. All petitions for variances should be in writing and should include the following information:

a. Name and address of petitioner(s).

b. Purpose of water use.

c. Specific provisions from which relief is requested.

d. Detailed statement of the adverse effect of the provision from which relief is requested.

e. Description of the relief requested.

f. Period of time for which the variance is sought.

g. Alternative measures that will be taken to reduce water use.

h. Other pertinent information.

(d) *Implementation and enforcement*. It will be the responsibility of the city manager to implement and enforce the provisions of the drought contingency plan. Persons found in violation of stage 1, stage 2 or stage 3 drought restrictions will be given a notice of violation.

Additional violations will result in a citation with a fine not to exceed $500.00 per day.

(e) *Public involvement*. Opportunity for the public to provide input into the preparation of the drought contingency plan was provided at a city council briefing session and through the city website.

(f) *Notification of initiation and termination*. When a trigger condition has been reached, the public will be notified through publication of news releases to the Star-Telegram, notices on the city's web page and announcements on the city's cable access channel. When trigger conditions have passed, notification will be made in the same manner.

(g) *Public information and education*. The city provides water conservation education opportunities each year. These opportunities include the Euless Water Forum, Arbor Daze and Town Hall meetings.

(h) *Pro rata water allocation*. In the event that stage 3 trigger conditions are reached, the city will work with the TRA to determine the necessary water delivery needed to insure the health, safety and welfare of the citizens of the city. In extreme water shortages, TRA may initiate pro rata allocation of water in accordance with Texas Water Code section 11.039.

(i) *Coordination with regional water planning groups*. The city is located within the Region C Regional Water Planning Area. In accordance with TCEQ rules, a copy of the drought contingency plan has been provided to the Region C Water Planning Group.

(Ord. No. 1383, § 1(Exh. A), 9-14-99; Ord. No. 1694, § 1, 9-13-05; Ord. No. 1871, § 1, 4-13-10; Ord. No. 1923, § 4, 8-30-11)

Editor's note–Ord. No. 1923, adopted Aug. 30, 2011 states "Penalty for violation. Persons found in violation of stage 1, stage 2 or stage 3 drought restrictions will be given a notice of violation. Additional violations will result in a citation with a fine not to exceed $1,000.00 per day. Each such violation shall be deemed a separate offense and shall be punishable as such hereunder."

Sec. 86-37 Responsibility of consumer for loss; averaging of charges

(a) A consumer shall be held responsible for loss of water due to breakage in pipe or plumbing on the discharge side of the meter. If this water is not paid for according to the established rates when the billing for such use becomes due, the consumer's water service will be subject to termination until all charges are paid. A consumer may request billing adjustments for leaks. To qualify for such an adjustment, the consumer must present to the city proof of repairs for the leak. The adjustment shall not exceed fifty percent of the metered or estimated water loss. The amount of estimated water loss shall be limited to 100,000 gallons. Consumers shall be limited to one adjustment per year.

(b) Should any meter fail to register correctly, the city reserves the right to estimate a consumption amount using an average of any three month's consumption.

(Ord. No. 1470, § 3, 6-26-01)

Sec. 86-38 Reclaimed water service

(a) Definitions.

Approved use shall mean an application or beneficial use of reclaimed water authorized by a reclaimed water service agreement.

Approved use area shall mean a site designated in a reclaimed water service agreement to receive reclaimed water for an approved use.

Authorized representative shall mean a representative of a user and may be:

(1) An owner;

(2) A responsible corporate officer, if the entity submitting the application or report is a corporation, including the president, vice president, secretary, or treasurer of the corporation in charge of the principal business function, or any other person who performs similar policy or decision-making functions for the corporation;

(3) An official of an association, nonprofit organization, local governmental entity, or state or federal installation having direct control of management decisions and fiscal responsibilities;

(4) Any partner or proprietor if the user is a partnership or proprietorship, respectively;

(5) The manager of one or more manufacturing, production, or operation facilities, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or

(6) A duly authorized representative of an individual as specified above if such representative is responsible for the overall operation of the facilities and when written authorization for such representative is submitted to the city.

Chapter shall mean chapter 86, “Utilities” of the City of Euless Code of Ordinances.

Chapter 210 shall mean Chapter 210 of Title 30 of the Texas Administrative Code, titled “Use of Reclaimed Water,” as it may be amended from time to time.

Chapter 210 reclaimed water authorization shall mean the written approval received from the TCEQ for implementing the reclaimed water use notification submitted to TCEQ that defines the reclaimed water service area and the intended uses of the reclaimed water system.

Chapter 210 service area shall mean the same as reclaimed water service area.

City shall mean the City of Euless, Texas.

Container unit shall mean any container that is used to hold reclaimed water during transport from an offsite reclaimed water facility to an approved use area.

Cross connection shall mean any connection, physical or otherwise, between a potable water supply system and any plumbing fixture, or any tank, receptacle, equipment or device, through

which it may be possible for any non-potable, used, unclean, polluted, and contaminated water, or other substances, to enter into any part of such potable water system under any condition or set of conditions or as described by chapter 14, Buildings and Building Regulations, of the City of Euless Code of Ordinances.

Director means the director of the city public works department, as designated and appointed by the city manager of the city, or the city manager appointed designee charged with the administration and enforcement of this article.

Offsite reclaimed water facilities shall mean any reclaimed water distribution, storage, or delivery facilities upstream of the point of connection to an approved use area.

Onsite reclaimed water facilities shall mean any reclaimed water distribution, storage, or delivery facilities downstream of the point of connection to an approved use area, i.e., on the customer's side of the reclaimed water meter.

Reclaimed water shall mean wastewater, collected and treated at a wastewater treatment plant, which has been treated to a quality that meets or exceeds the requirements of the TCEQ's Chapter 210 reclaimed water authorization to the city.

Reclaimed water distribution system shall mean a system, for the provision to a user of reclaimed water, consisting of pipes and related facilities for the distribution, use, and sale of reclaimed water at various points of connection, that may be designed and constructed, or otherwise acquired, and thereafter operated by the city.

Reclaimed water service shall mean furnishing of reclaimed water to a user, through a metered connection, to onsite reclaimed water facilities.

Reclaimed water service agreement shall mean a contractual agreement between a user and the city that establishes the conditions and terms for delivery and use of reclaimed water subject to supply to the city.

Reclaimed water service area shall mean all territory within the limits of the city and/or such additional territories as authorized under the city's Chapter 210 reclaimed water authorization.

Reclaimed water transportation shall mean the transport of reclaimed water by vehicles to an approved use area.

Standard specifications shall mean the latest revision of City of Euless's "Standard Specifications for Public Works Construction".

TCEQ shall mean the Texas Commission on Environmental Quality.

User shall mean a party to a reclaimed water service agreement with the city.

User reclaimed water facilities includes all connections and facilities on the user's side of the reclaimed water meter beginning with and including the connection to the reclaimed water meter.

(b) Reclaimed water application and service.

(1) The city may make reclaimed water available to properties within the reclaimed water service area upon request or as required by the rules, regulations, policies and procedures adopted pursuant to section 86-26 of the city Code of Ordinances, when it is feasible and when such service is in compliance with this article and all applicable laws, ordinances, and regulations.

(2) To request reclaimed water service from the city, a person shall submit an application to the director and shall agree to abide by all requirements for reclaimed water service as described in this article, including design standards for reclaimed water facilities, the manner of construction, the method of operation, and all other conditions for service.

(3) Upon submittal of an application for reclaimed water service, the director shall review such application and shall make such investigation as is reasonably necessary to determine if such service is feasible and practicable taking into consideration factors such as the predicted availability of reclaimed water, source reliability, and any other competing demands on city resources. The investigation may include a visit to the proposed site for reclaimed water service.

(4) If after careful review of a request for reclaimed water service, the director determines the request feasible and the director approves the application, the city may enter into a reclaimed water service agreement with the user, provided the requester meets the minimum system design and operation standards as described herein.

(5) Upon successful inspection and approval of the reclaimed water service facilities by the city, per the requirements of this article, the requester shall execute a reclaimed water service agreement with the city for reclaimed water service.

(6) The reclaimed water service agreement shall incorporate the requirements of this article, Chapter 210, and other terms and conditions prescribed by the director.

(7) Prior to delivery of reclaimed water, the requester must sign the reclaimed water agreement acknowledging that as a user, that person is now responsible for onsite reclaimed water facilities and related activities, that the user shall comply with all applicable laws, ordinances, and regulations, including but not limited to Chapter 210, and shall agree to hold the city harmless from claims related to the reclaimed water and the operation and maintenance of the onsite facilities and related activities.

(8) The city may discontinue reclaimed water service if the user:

a. Violates the terms of the reclaimed water service agreement or this article;

b. Tampers with any facilities related to the service, including the meter;

c. Cross-connects the reclaimed water system with a potable water source;

d. Refuses to permit an authorized city representative to enter its premises to inspect the user's reclaimed water system; or

e. Performs an act that the director determines may be detrimental to the water, wastewater, and/or reclaimed water system or the health and safety of the public.

(9) A user who seeks to discontinue service shall pay for the reclaimed water used until the service is disconnected.

(10) A user may not reconnect a discontinued reclaimed water service without approval from the director.

(11) If a user reconnects a discontinued service without approval of the director, the water utilities department may remove the service and charge an additional fee as set by the city council.

(12) A user may apply for reinstatement of service after paying all fees or charges assessed.

(13) The director shall charge a fee as set by the city council for reinstatement of reclaimed water service.

(14) The director shall have the right to temporarily discontinue, disconnect, and re-connect the reclaimed water service without notice to all users for the purpose of cleaning the system and making repairs, connections, and extensions of the system. The director shall have the right to temporarily disconnect reclaimed water service without notice to a user having a break on their private line, should that break present a hazard to the general public. The director shall have the right to discontinue without notice reclaimed water service in an emergency. None of the terms of this article shall ever be construed as requiring the city to maintain a specific constant pressure in its service lines.

(c) Compliance with minimum design and operation standards.

(1) A requester for reclaimed water service shall submit the following information to the director for approval, prior to construction or retrofit of an onsite reclaimed water facility that will use or receive reclaimed water:

a. Design drawings and specifications in compliance with the city's policies and regulations;

b. Drawings of the final installed onsite reclaimed water facility and the entire proposed use area;

c. Proof that the user will be compliant with chapter 14, Buildings and Building Regulations, of the City of Euless Code of Ordinances for cross connection control and other applicable city ordinances and laws regarding backflow

prevention requirements, and proof that the user has the required backflow prevention assembly on the reclaimed water service line; and

d. Proof, as requested by the director, that the user has sufficient storage facilities for the reclaimed water and will be in compliance with Title 30, Section 210.23 of the Texas Administrative Code.

(2) The director shall issue written notice to proceed with construction and/or retrofit upon satisfaction that the requester will meet the minimum design and operation standards for reclaimed water service.

(3) The user shall make a written request for inspection by the city.

(4) The director shall grant the user approval of onsite reclaimed water facilities if:

a. The director determines that the requester meets the minimum design and operation standards; and

b. The system passes the inspection, including the cross-connection control and operational tests.

(d) Rules and restrictions on service.

(1) The city will conduct the operation, management, and control of offsite reclaimed water facilities and the oversight of the reclaimed water. The city will conduct water quality assessments to comply with regulatory requirements applicable to reclaimed water it delivers at the point of connection. The city reserves the right to take action at such times it deems necessary to safeguard the public health and safety.

(2) The user shall be responsible for construction and operation of onsite reclaimed water facilities up to the established point of connection with the offsite reclaimed water facilities. The user shall provide supervision and training to operations personnel, and conduct all operations of onsite reclaimed water facilities in compliance with this section, Chapter 210, and other applicable laws, ordinances, and regulations; provide access to onsite reclaimed water facilities at reasonable times for inspections by the city.

(3) The use of reclaimed water is restricted to the purposes allowable under Chapter 210 which include: turf and general landscape irrigation; cooling tower, air conditioning or chiller makeup water; non-food processing industrial processes, including natural gas exploration processes; and other lawful uses as authorized by the city.

(4) A user may use reclaimed water only as authorized by the city and as designated in the reclaimed water service agreement and in compliance subject to prohibitions of City of Euless Code of Ordinances, chapter 86, article II, Water and Sanitary Sewer Systems, Chapter 210 and all applicable laws, ordinances, and regulations.

(5) The following specific prohibitions or requirements that apply to the use or handling

of reclaimed water are not inclusive of all restrictions on the use or handling of reclaimed water in this section.

a. Reclaimed water shall not be purposely discharged to any pipeline, channel, gutter, drain, or other conveyance structure that is connected to the storm sewer system.

b. Reclaimed water used for cooling, processing or any other non-consumptive use shall be discharged to a sanitary sewer, in compliance with all applicable permits and laws governing such discharges.

c. Reclaimed water shall only be used for purposes approved by this section and as stated in the reclaimed water service agreement.

d. Reclaimed water shall not be used outside of the area approved in the reclaimed water service agreement. The user shall not discharge airborne or surface reclaimed water to another area without prior approval of the city.

e. A user of reclaimed water shall employ practices that apply reclaimed water in a way that is efficient and avoids excessive application that results in surface runoff, incidental ponding or standing water. If such conditions occur, the user shall immediately alter application methods to prevent any further runoff or standing water.

f. A user shall store reclaimed water in a way that avoids discharge of reclaimed water into waters of the state. The initial holding pond shall not be located within the floodway, and if stored in a pond the lining must be in compliance with Chapter 210 rules and have a certification furnished by a Texas registered professional engineer. Reclaimed water may be stored in leak-proof, fabricated tanks.

(6) The director may inspect devices installed by the user to control the flow of reclaimed water and may remove or secure such devices if installed in violation of this section or any term of the reclaimed water service agreement.

(7) The director may inspect any offsite or onsite reclaimed water facilities, as well as use areas and adjoining property, during normal business hours and shall be granted access, without prior notice to the user.

(8) The user and user's operations personnel shall cooperate with the city and its authorized representatives and assist in performing operational tests.

(e) Standard specifications for reclaimed water service.

(1) The standard specifications, as amended, or other applicable laws, adopted for water and sewer systems shall apply to reclaimed water system improvements to the extent applicable.

(2) The standard specifications, as amended, or other applicable laws, shall be

incorporated into all contracts for reclaimed water system improvements and include standard specifications for reclaimed water such as reclaimed water specific pipe and labeling of systems.

(3) The director is authorized to alter, amend, add to, or waive all or any part of said specifications with regard to specific reclaimed water systems when, in the opinion of the director, such would be in keeping with sound engineering practice and would provide for the health and safety of the Euless residents, visitors, and businesses.

(f) Rules and regulations for providing reclaimed water service.

(1) The city will determine the reclaimed water service area within the City of Euless and its Chapter 210 service area for providing reclaimed water with an available reclaimed water supply and distribution system.

(2) A property owner or user shall:

a. Execute an agreement with the city prior to extension of any main or any construction of facilities or appurtenances for a reclaimed water system and abide by all laws, ordinances, and regulations of the city and state to utilize reclaimed water.

b. Ensure planned extensions of any main or construction of any facilities or appurtenances for a reclaimed water system are within the Chapter 210 service area or if construction is outside the reclaimed water service area notify the director to determine if services may be authorized.

(3) Construction of all reclaimed water facilities required by these regulations shall be in accordance with the requirements and specifications contained in the city standard specifications, the city design policies, and the regulations of the Texas Commission on Environmental Quality.

2(4) A user must identify reclaimed water facilities with signs using a template to be provided by the city and having a minimum size of eight inches by eight inches posted on the property, at all storage areas and on all hose bibs and faucets reading, in both English and Spanish, “Reclaimed Water, Do Not Drink” or similar warning in accordance with Section 210.25 of Title 30 of the Texas Administrative Code.

(g) Rates, charges and billing. The schedule of fees and monthly rates for reclaimed water shall be as set forth in chapter 30.

(h) Inaccurate meter readings. Chapter 86, section 86-37(b), shall govern in instances when a reclaimed water service meter fails to register or registers inaccurately.

(i) No grant or transfer of water right or ownership interest. The delivery of reclaimed water by the city and the acceptance and use of the reclaimed water by the user is not a transfer or an acquisition by the user of a water right or an ownership interest in any of the offsite reclaimed water facilities.

(Ord. No. 2023, § 1, 2-25-14)

Sec. 86-39 Transportation of reclaimed water

(a) Definitions. The definitions set forth in section 86-38(a) shall be applicable to the provisions in this section.

(b) General provisions for transportation of reclaimed water.

(1) The city may make reclaimed water available for transportation by vehicle to an approved use area.

(2) Reclaimed water shall be made available only under the terms and conditions provided herein and only to such persons as are duly permitted by the city as users as provided in section 86-38(b).

(3) The city shall not be obligated to provide such reclaimed water to users and may discontinue such service at any time, to limit the volume and to establish or alter loading procedures and/or locations as deemed necessary by the director.

(c) Reclaimed water transportation permits.

(1) A reclaimed water transportation permit is required to transport reclaimed water by vehicle from a city facility to an approved use area. An application must be filed with the public works department to obtain a permit from the director.

(2) An applicant for a reclaimed water transportation permit shall:

a. Submit with the application a photocopy of the applicant's driver's license and photocopies of the driver's license of every proposed driver of the reclaimed water transportation vehicles.

b. Submit to the director proof that applicant's vehicles, which will be registered under the permit, are insured in at least the minimum amounts as required by state law, or are self-insured as provided by state law to secure payment of all lawful and proper claims arising out of the operation of each vehicle. A written statement from an authorized agent of the applicant's insurance carrier verifying the issuance of such insurance shall be filed with the director before a permit is issued. All such verifications of insurance shall provide for a 30-day cancellation notice to the director.

c. Submit for approval a traffic plan to use for routing the vehicles that transport the reclaimed water.

d. Provide any additional information requested by the director.

(3) Before a permit is issued, each vehicle must satisfactorily pass city inspection and meet the following requirements:

a. The business name, telephone number and address of applicant shall be permanently displayed on both sides of the vehicle in letters of a minimum height of three inches, in a color contrasting to their background. An address is sufficient if it states city and state. If applicant's business is not within a municipality, the name of the county and state will be sufficient.

b. The vehicle shall display current state vehicle registration tags and inspection certificate.

c. The vehicle shall be clean and odor free.

(4) Before a permit is issued, each container unit the applicant proposes to use shall meet the following requirements:

a. Container units or tanks shall have a minimum capacity of 1,000 gallons, shall be capable of being closed watertight and shall be so closed during transport of reclaimed water; and shall be maintained in a leak-proof condition. Special permits may be issued for container units with a capacity of less than 1,000 gallons upon the determination by the director that all other container unit specifications herein required have been met and that the particular container unit does not create an increased risk to the public health and safety.

b. Container units shall be identified by labels or signs such as "CAUTION - RECLAIMED WATER DO NOT DRINK" in English and Spanish, similar to labeling required for exposed piping or as in section 86-38 (f)(4) above. Labels or signs shall be placed, on both sides of container and rear end of container, so that they can be seen readily by all operations personnel using the vehicle and container unit.

c. Container units or tanks shall have an air gap.

(5) The permit holder may request a modification to the permit during the permit year to register additional vehicles or container units. A request to register additional vehicles or container units shall be made to the director and at a minimum the permit holder shall:

a. Ensure that all vehicles or container units meet the requirements of section 86-39(c)(4); and

b. Provide proof of liability insurance or self insurance for such additional vehicles in accordance with section 86-39(c)(2)(b); and

c. Remit the required permit fee for each additional container unit.

(6) If the currently permitted transportation route is to be changed, the permit holder must submit the alternate route plan and obtain approval from the director for the new traffic plan prior to commencement of use.

(7) If currently permitted and desiring an alternate use area, the permit holder must submit desired alternate use area for approval from the director prior to commencement of operational use.

(8) A permit modification may not extend the term of the original permit.

(9) Upon the filing of the required application, and payment of the permit fee for each container unit, the director shall upon determination that the applicant and vehicles and container units are in compliance with all applicable provisions of this section, issue a permit for each container unit.

a. The permit shall identify the particular container unit for which it is issued and shall be displayed in a prominent place upon the container unit.

b. Each container unit shall be separately permitted.

(10) A permit shall be valid for one year unless suspended or revoked.

(11) A permit shall not be transferable.

(12) The city council shall set a base annual fee for a permit, which shall include one container unit. For each additional container unit, there shall be an additional fee as set by the city council.

(13) The director may deny the issuance of a permit if:

a. The applicant, a partner of the applicant, a principal in the applicant's business, or applicant's manager or operator has:

1. Within the five years preceding the date of the application been convicted of a misdemeanor that is punishable by confinement and/or by a fine exceeding $2,000.00, and which relates directly to the duty or responsibility of transporting reclaimed water or liquid waste.

2. Been convicted of a felony which relates directly to the duty or responsibility of transporting reclaimed water or liquid waste.

b. The applicant fails to provide evidence of liability insurance or self-insurance as required by this section;

c. The applicant had a permit, that was issued under this section, suspended or revoked within the 12 months preceding the date of the application;

d. The application contains a false statement of a material fact;

e. The application or all required other information is incomplete;

f. The applicant's vehicles or container units submitted for inspection do not meet the criteria of this section;

g. The applicant has not shown proof that the applicant and the applicant's drivers are qualified under this section; or

h. The applicant has violated a provision of this section within the preceding 12 months.

(14) An applicant whose permit is denied will be notified by the director, in writing, of the denial and the grounds therefore. Such notice will be sent by certified mail, return receipt requested, to the mailing address listed on the application.

(15) An applicant whose permit is denied may request a reconsideration within ten days after service of the notice of denial.

(16) A person who has been issued a permit by the director shall comply with the following:

a. A permit holder shall immediately notify the director of any management changes in the business during the time the permit is in effect, and shall provide the director with a photocopy of the new manager's or chief operating officer's driver's license;

b. A transporter shall deliver reclaimed water only to users that have been approved by the director and that have a reclaimed water service agreement on file with the city;

c. The permit holder shall maintain insurance required by this section and immediately notify the director of any changes in its insurance carrier or policy, and insured status or self-insured status;

d. The permit holder shall maintain all vehicles and container units registered under the permit in compliance with the requirements of this section;

e. The permit holder shall immediately notify the director when it sells or otherwise disposes of a vehicle or container unit registered under the permit;

f. A permit holder shall ensure that all of the permit holder's employees collecting and transporting reclaimed water in vehicles and container units registered under the permit remain sufficiently knowledgeable of such vehicles and container units, and of the reclaimed water user locations they service, so that they are able to collect and transport reclaimed water in a safe and competent manner; and

g. The permit holder shall ensure that none of the vehicles registered under a permit exceed state weight limits while transporting reclaimed water.

(d) Transporter responsibilities.

(1) Before accepting a load of reclaimed water, a transporter shall determine whether the transporter's equipment is sufficient to properly handle the transportation without

spillage or leaks.

(2) A transporter shall not operate a vehicle for the transportation of reclaimed water or use container units that fail to meet the requirements of this section.

(3) A transporter shall deliver reclaimed water only to users that have been approved by the director and that have a valid reclaimed water service agreement.

(4) A transporter shall not commingle reclaimed water with any other liquid or waste, including other sources of non-potable water.

(5) All container units used to transport any other liquid or waste, including other sources of non-potable water, shall be cleaned and disinfected prior to being used to transport reclaimed water. Required cleaning and disinfection procedures will be provided by the director. Any deviation from the required procedures must be approved in writing by the director.

(6) A transporter shall insure that reclaimed water is delivered to the approved user immediately, but not later than 12 hours following receipt of the reclaimed water from the city.

(7) A transporter shall not discharge reclaimed water into the municipal sanitary storm sewer system, or into any ponds, streams or rivers.

(8) Any excess reclaimed water shall be disposed of by discharging to a wastewater treatment system or wastewater collection system in compliance with all applicable permits or laws for such treatment or collection systems.

(9) A transporter shall allow the director and any authorized peace officer to inspect vehicles and container units registered under a permit, upon their request.

(10) A transporter shall allow the director and any peace officer to obtain samples of reclaimed water from the transporter's container units, upon their request.

(11) A transporter operating under a city permit shall use a manifest system book consisting of three-part trip tickets, purchased from the director for a fee established by the city council, in the following manner;

a. Each manifest system book shall be used exclusively for a single vehicle.

b. A transporter will complete one trip ticket for each individual delivery.

c. The transporter shall sign the original part of a trip ticket at the time of reclaimed water collection.

d. The transporter shall have the user sign the original part of the trip ticket at the time the reclaimed water is delivered, and shall leave the first copy of the trip ticket with the user.

e. The transporter shall retain the second copy of the trip ticket for the transporter's own records.

f. The transporter shall deliver to the director all completed original trip tickets no later than the tenth day of the month following the month in which they were completed.

g. The transporter shall retain its copies of all trip tickets for a period of five years, and shall make such copies available to the director, upon request, for inspection at all reasonable times.

(e) Offenses.

(1) A person commits an offense if the person engages in the transportation of reclaimed water and fails to comply with any provision of this section.

(2) A person commits an offense if the person operates or causes to be operated a vehicle transporting reclaimed water in container units not registered under a city reclaimed water transportation permit.

(3) A person commits an offense if the person operates or causes to be operated a vehicle transporting reclaimed water and fails to display to the director or any peace officer upon demand, a copy of a valid city permit.

(4) A person commits an offense if the person operates or allows to be operated a vehicle and/or containers which allows for the leakage or spillage of reclaimed water.

(f) Grounds for suspension or revocation of reclaimed water transportation permit. The director may suspend a permit for up to six months or may revoke a permit if the director determines that:

(1) The permit holder, a partner of the permit holder, a principal in the permit holder's business, a permit holder's manager or operator, or an officer of permit holder:

a. Has within the five years preceding the date of the hearing been convicted of a misdemeanor that is punishable by confinement and/or by a fine exceeding $2,000.00, and which relates directly to the duty or responsibility in operating a reclaimed water transportation business; or

b. Has been convicted of a felony which relates directly to the duty or responsibility in operating a reclaimed water transportation business.

(2) The permit holder failed to comply with any of the permit conditions stated in [this] section;

(3) The permit holder or any agent or employee thereof failed to use the manifest system book in compliance with this section, or to maintain manifests for five years, or to allow the director to inspect the manifests;

(4) The permit holder or any agent or employee thereof improperly disposed of reclaimed water;

(5) The permit holder or any agent or employee thereof commingled reclaimed water with any other liquid or waste, including other sources of non-potable water, in a city-permitted container unit;

(6) The permit holder or any agent or employee thereof refused or failed to allow the director or a peace officer to inspect a reclaimed water transportation vehicle or container unit or obtain reclaimed water samples from a container unit; or

(7) The permit holder or any agent or employee thereof, within the 12 months preceding the hearing, was convicted of violating this section.

(g) Reclaimed water transportation user responsibilities.

(1) A user of reclaimed water delivered by vehicle shall submit a reclaimed water service application and obtain approval for reclaimed water service, per the requirements of this article.

(2) A user of reclaimed water delivered by vehicle shall comply with all applicable user responsibilities of this article.

(3) A user of reclaimed water delivered by vehicle shall sign the original of a City of Euless trip ticket prepared by a transporter operating under a city permit for all reclaimed water received on the user's premises from such transporter.

(4) The user shall note any significant discrepancies on each copy of the trip ticket.

a. Trip ticket discrepancies are differences between the quantity of reclaimed water on the trip ticket and the quantity of reclaimed water a user actually received.

b. A significant discrepancy in quantity is any variation greater than 15 percent, measured in gallons.

(h) Additional reclaimed water transportation permit holder responsibilities.

(1) A permit holder shall immediately notify the director in writing when the reclaimed water transportation business is sold or ceases to operate.

(2) In addition to the written notification required in subsection (g)(1) above, when a reclaimed water transportation business is sold or ceases to operate the permit holder shall immediately deliver to the director:

a. All completed original trip tickets in the permit holder's possession;

b. All unused trip tickets in the permit holder's possession; and

c. The permit holder's permit(s).

(3) A permit holder commits an offense if the permit holder fails to provide notice to the director as required by this section.

(4) A permit for the transportation of reclaimed water shall be invalid upon the sale or cessation of operation of a reclaimed water transportation business.

(Ord. No. 2023, § 1, 2-25-14)

Sec. 86-40 Sanitary and pollution control of areas in proximity to the city's public water supply wells

(a) *Purpose*.

(1) This section sets forth uniform requirements for uses and the construction of facilities in or on land within one hundred fifty feet (150') of the wells in order to promote sanitary conditions in and around such wells, to secure all such land from pollution hazards, and to enable the city to comply with all applicable state and local regulations.

(2) The objective of this section is to prevent certain uses and the construction of facilities in or on land surrounding the wells, which might create a danger of pollution to the water produced from such wells.

(b) *Definitions*.

City council shall mean the city council of the City of Euless, Texas.

City shall mean the City of Euless, Texas.

Person shall mean any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or its legal representatives, agents, successors, or assigns.

Wells shall mean the water wells owned and operated by the city, which are more specifically identified and described in exhibit "A" attached to the ordinance adopting this section and made a part thereof.

(c) *Prohibited activities*. The following activities are prohibited within the designated areas of land surrounding the wells:

(1) Construction and/or operation of any underground petroleum and/or chemical storage tank, liquid transmission pipeline, stock pen, feedlot, dump grounds, privy, cesspool, septic tank, sewage treatment plant, sewage wet well, sewage pumping station, drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems, solid waste disposal site, land on which sewage plant or septic tank sludge is applied, land irrigated by sewage plant effluent, septic tank perforated drain field, absorption bed, evapotranspiration bed, area irrigated by low

dosage, low angle spray[,] on-site sewage facility, military facility, industrial facility, wood treatment facility, liquid petroleum and petrochemical production, storage, and/or transmission facility, class 1, 2, 3, and/or 4 injection well, pesticide storage and/or mixing facility, abandoned well, inoperative well, improperly constructed water well of any depth, and all other construction or operation that could create an unsanitary condition is prohibited within, upon, or across all areas of land within a 150-foot radius of the wells. For the purposes of this section, "improperly constructed water wells" are those wells that do not meet the surface and subsurface construction standards for a public water supply well.

(2) Construction and/or operation of tile or concrete sanitary sewers, sewer appurtenances, septic tanks, storm sewers, and cemeteries is specifically prohibited within, upon, or across any area of land within a 50-foot radius of the wells.

(d) *Permitted activities*.

(1) Construction of homes or buildings upon any area of land within a 150-foot radius of the wells is permitted, provided the restrictions described in subsection (c) above are met.

(2) Normal farming and ranching operations are not prohibited by this section; provided, however, livestock shall not be allowed within a 50-foot radius of the wells.

(e) *Right of entry*. City employees, or authorized representatives of the city, bearing proper credentials and identification, shall be permitted to immediately enter upon any premises located within a 150-foot radius of any well to conduct any inspection or observation necessary to enforce this section.

(f) *Required removal*. Any person who shall violate any provision of this section shall be required to immediately cease construction and/or remove the prohibited building, use or potential source of contamination within 90 days after notification that they are in violation of this section.
(Ord. No. 2028, § 1. 4-8-14)

Secs. 86-41–86-45 Reserved

Division 2. Fees, Rates and Charges*(86)

Sec. 86-46 Purpose

It is the purpose of this division to provide for the recovery of costs from users of the city's water and wastewater disposal system for the implementation of the program established in this chapter.

(Code 1974, § 16-20)

Sec. 86-47 Connection fees and impact fees

(a) Water. Prior to receiving service, each consumer shall, upon being connected to the

system, pay the appropriate connection fees, as set forth in chapter 30, including impact fees, tap fees, meter box fees, meter fees, sprinkler meter fees and sprinkler box and fitting fees.

(b) Sewer. Sewer impact fees shall be paid solely for the privilege of connection to the system. The cost of installing such connection shall be borne by the user. The impact fee shall be as set forth in chapter 30. If there is no water meter serving the property, sewer impact fees shall be calculated based on the size of water meter which would be required for the uses existing on the property.

(c) Impact fees regulations. For further information on impact fees, see division 3, impact fees, of this article I.

(Code 1974, § 16-21)

Cross reference–Water and sewer fees and impact fees, § 30-33.

Sec. 86-48 Deposits

(a) All applicants for water service will be required to make a meter deposit (payment security deposit) for each water service connection. Such deposit shall remain with the city throughout the term of the service contract. The amount of such deposit shall be as set forth in chapter 30.

(b) For unoccupied properties, a master deposit may be placed by realtors, rental agents and similar applicants in the amount of twice the current residential deposit. This deposit will be held on file until the customer wishes it to be refunded. Customers must request service starts and disconnects in writing. No master deposits are allowed on commercial accounts.

(c) In lieu of a cash deposit an applicant may provide a surety bond in favor of the City of Euless in the amount of such required deposit and in the form acceptable to the City of Euless from a surety company that:

(1) Is authorized and admitted to write surety bonds in Texas,

(2) Holds a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law, and

(3) Has an A.M. Best & Company rating of A-6 or higher.

(d) Deposits shall be refunded or the surety bond returned or, if a balance is due, applied against the final bill for services required upon termination of the contract. The city will not pay interest on deposit funds.

(Code 1974, § 16-22; Ord. No. 1091, § 2, 9-8-92; Ord. No. 1139, § I, 6-28-94; Ord. No. 1397, § 1, 12-14-99; Ord. No. 1419, § 1, 4-11-00)

Cross reference–Water deposit amounts, § 30-34; master deposit, § 30-35.

Sec. 86-49 Schedule of monthly rates

The schedule of monthly rates for water, sewer, abnormal sewage surcharge, and industrial cost recovery charge shall be as set forth in chapter 30.

(Code 1974, § 16-23)

Cross reference–Water and sewer service rates, § 30-35.

Sec. 86-50 Reconnection of service

Where services have been disconnected for nonpayment, there shall be a charge for reconnection and an additional deposit, as set forth in chapter 30, and full payment of outstanding bills before reconnection of service.

(Code 1974, § 16-24)

Cross reference–Water and sewer reconnection fees, § 30-36.

Sec. 86-51 Monitored group class

(a) The superintendent shall establish a monitored group class, consisting of those customers whose wastewater strength is, in his judgment, abnormally high or low, and charges to customers in this class shall be computed in accordance with the rate schedule set forth in chapter 30.

(b) The monitoring charge shall consist of all cost for personnel, material and equipment used to collect and analyze samples from the customer's wastewater to determine the strength of the wastewater produced. The monitored customer's wastewater shall be tested a minimum of once per year, but may be tested on a more frequent basis if deemed necessary by the superintendent or if the mentioned customer requests more frequent testing.

(c) The rate schedule provided for in this section shall replace all other charges previously made for industrial waste strength.

(Code 1974, § 16-25)

Cross reference–Fees established for monitored group class customers, § 30-37.

Sec. 86-52 Industrial cost recovery

(a) Construction costs. In providing a waste treatment system which includes the treatment of industrial wastes, either independently or in conjunction with other wastes, the water department shall have the authority to collect from such industrial users all or any part of the construction costs of such waste treatment system reasonably attributed to such industrial wastes. The apportionment of such costs shall be equitable as among industrial users, and such costs may be collected by assessment, connection fee, periodic charges, or in other manners or combinations thereof as in the judgment of the director of public works is equitable and will assure such industrial cost recovery. Implementation of industrial cost recovery shall be contingent on notification of apportionment and actual billing by the Trinity River Authority and as mandated by state or federal requirements.

(b) Industrial user. An industrial user is any nongovernmental user of the city's sanitary sewage system, identified in the Standard Industrial Classification Manual, 1972, published by the Office of Management and Budget, as amended and supplemented, under the following divisions:

(1) Division A-Agriculture, forestry and fishing.

(2) Division B-Mining.

(3) Division D-Manufacturing.

(4) Division E-Transportation, communications, electric, gas and sanitary services.

(5) Division I-Services.

Any industrial user may be excluded if it is determined that it will introduce primarily segregated domestic wastes or wastes from sanitary conveniences.

(c) Annual recovery. The annual amount to be recovered from each industrial user shall be predicated on the following formula:

$$[(G \times A/D) + (H \times B/E) + (I \times C/F)]/J = \text{Annual payment (\$/year)}$$

where:

A	=	Eligible federal grant allocable to flow (Q), in dollars.
B	=	Eligible federal grant allocable to BOD, in dollars.
C	=	Eligible federal grant allocable to SS, in dollars.
D	=	Total design flow (Q), in 1,000 gallons per day.
E	=	Total design BOD, in pounds per day.
F	=	Total design SS, in pounds per day.
G	=	Industrial users' flow discharge to system, in 1,000 gallons per day.
H	=	Industrial users' BOD, discharge to system, in pounds per day.
I	=	Industrial users' SS discharge to system, in pounds per day.
J	=	Amortization period of 30 years.

(d) Annual payment. For the purpose of computing the industrial user's annual payment, a cost recovery period of 30 years is hereby established.

(e) Monthly billing. The industrial user shall be billed monthly on the basis of his computed annual industrial cost recovery payment divided by 12.

(f) Industrial cost recovery fund. Funds collected under industrial cost recovery shall be deposited into a special fund to be known as the industrial cost recovery fund, which is hereby established. On an annual basis, 100 percent of the amounts recovered, together with interest earned thereon, shall be returned to the governmental agency responsible for treatment of such

industrial waste.

(g) Annual review. Industrial users shall be reviewed annually by the city for quality and strength of waste, and industrial cost recovery adjusted accordingly.

(Code 1974, § 16-26)

Secs. 86-53–86-65 Reserved

Division 3. Impact Fees

Sec. 86-66 Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Capital improvement means water supply, treatment and distribution facilities; wastewater collection and treatment facilities; roadway facilities; and stormwater, drainage, and flood control facilities, whether or not they are located within the corporate limits of the city.

Capital improvements plan means the plan currently in effect within the city, as such plan may, from time to time, be amended, that identifies capital improvements or facility expansions for which impact fees may be assessed under this chapter.

Facility expansion means the expansion of the capacity of an existing facility that serves the same function as an otherwise necessary new capital improvement, in order that the existing facility may serve new development. This term does not include the repair, maintenance, modernization or expansion of an existing facility to better serve existing development.

Impact fee means a charge or assessment imposed by the city against new development in order to generate revenue for funding or recouping the costs of capital improvements or facility expansions necessitated by and attributable to the new development. The term includes amortized charges, lump sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(1) Dedication of land for public parks or payment in lieu of the dedication to serve park needs;

(2) Dedication of rights-of-way or easements or construction or dedication of onsite water distribution, wastewater collection or drainage facilities, or streets, sidewalks or curbs if the dedication or construction is required by ordinance and is necessitated by and attributable to the new development; or

(3) Lot or acreage fees to be placed in trust funds for the purpose of reimbursing developments for oversizing or constructing water or sewer mains or lines.

Living unit equivalents means the living unit equivalents (LUE) or “service units” and is a standardized measurement for consumption, use, generation or discharge that is attributed to

an individual unit of development. Different types of land uses produce differing demands on the water and wastewater system. The magnitude of the potential demand that can be placed on the system is best described by the flow that can be accommodated through the tap or meter.

New development means the subdivision of land; the construction, reconstruction, redevelopment, conversion, structural alteration, relocation or enlargement of any structure; or any use or extension of the use of land, any of which increases the number of service units.

Service area means the service area for which potable water and wastewater systems are intended to serve and is limited to the corporate city limits of Euless, exclusive of the land area located east of State Highway 360 and owned by the Dallas/Fort Worth International Airport.

Service unit means a standardized measure of consumption, use, generation or discharge attributable to an individual unit of development calculated in accordance with generally accepted engineering or planning standards for a particular category of capital improvements or facility expansions. The standard service unit for calculation of impact fees is a three-quarter-inch water meter. Service unit equivalents for larger meters are as follows:

Size of Meter (inches)	Equivalent Factor
3/4	1.00
1	1.67
1-1/2	3.33
2	5.33
3	10.00
4	16.67
6	33.33
8	60.00
10	96.67

(Code 1974, § 16-39.1; Ord. No. 1111, §§ IV, V, 5-25-93)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 86-67 Amount of impact fee

Water and sewer impact fees to be charged pursuant to this chapter are set forth in chapter 30 and may be amended from time to time in the manner provided by law. The total impact fee for new development shall be calculated based on the number of service units or service unit equivalents attributable to such new development.

(Code 1974, § 16-39.2)

Cross reference–Impact fee amount, § 30-33.

Sec. 86-68 Time for assessment and collection of impact fees

(a) For new development which was platted prior to June 12, 1990, impact fees for service units for which building permits have not been issued prior to such date shall be assessed as of June 12, 1990. For any such service unit for which a building permit is issued prior to June 12, 1991, the impact fees for such service unit shall be assessed in an amount equal to the impact fees assessed and charged for such service units prior to June 12, 1990, and shall be collected at the time a building permit for such service unit is issued. For any such service unit for which a building permit is issued on or after June 12, 1991, impact fees shall be assessed at the time provided in this section in the amount specified in chapter 30, and shall be collected at the time the city issues a building permit for such service unit. In all cases, payment of such impact fees shall be a condition precedent to the issuance of a building permit for any service unit.

(b) For new development platted after June 12, 1990, the impact fees attributable to such new development shall be assessed at the time of recordation of a subdivision plat or other plat for such development in the official records of the county clerk. Except as provided by the following section of this division, impact fees so assessed shall be collected at the time the city issues a building permit for any unit of such new development, and payment of such fee shall be a condition precedent to the issuance of such building permit.

(c) For land upon which new development occurs or is proposed to occur without platting, impact fees may be assessed by the city at any time during the development and building process. The impact fees shall be collected at the time the city issues a building permit for such development, and payment of such impact fee shall be a condition precedent to the issuance of such building permit.

(d) If the building permit for which an impact fee has been paid has expired and a new application is thereafter filed, the impact fees due shall be computed using the impact fee schedule then in effect, with credits for previous payment of fees being applied against the new fees due.

(e) Whenever the property owner proposes to increase the number of service units for a development, the additional impact fees assessed for such new service units shall be determined by using the impact fee schedule then in effect, and such additional fee shall be collected at the time of issuance of a new building permit.

(f) As used in this section, “assessment” means a determination of the amount of the impact fee in effect on the date or occurrence provided in this section. No specific act by the city is required in order to assess an impact fee.

(Code 1974, § 16-39.3; Ord. No. 1497, § 1, 9-11-01)

Sec. 86-69 Agreements for capital improvements

(a) An owner of a new development may construct or finance a capital improvement or facility expansion designated in the capital improvements plan, if required or authorized by the city, by entering into an agreement with the city prior to the issuance of any building permit for the

development. The agreement shall be on a form approved by the city and shall identify the estimated cost of the improvement or expansion, the schedule for initiation and completion of the improvement or expansion, a requirement that the improvement be designed and completed to city standards, and such other terms and conditions as deemed necessary by the city. Such agreement shall provide for an offset to be given against the impact fees due for such development and shall provide the method to be used to determine the amount of such offset.

(b) In lieu of the offset provisions set forth in subsection (a), the city may elect to require an owner to pay the applicable impact fees and agree to later reimburse such owner for the dedication, construction or financing of capital improvements or facility expansions designated in the capital improvements plan, such reimbursement to come from impact fees paid from other new developments that will use such capital improvements or facility expansions. In this event, the terms of reimbursement shall be incorporated in the agreement required by this section, provided, however, that such fees shall be collected and reimbursed to the owner at the time building permits are issued for the other new development.

(Code 1974, § 16-39.4; Ord. No. 1497, § 2, 9-11-01)

Sec. 86-70 Accounting for impact fees and interest thereon

(a) All water impact fees collected under this division shall be deposited into an interest bearing account clearly identified as a water system capital improvements or facility expansions account and may be spent only for the purposes for which such impact fees were imposed as shown by the capital improvements plan and as authorized by state law.

(b) All sewer impact fees collected under this division shall be deposited into an interest bearing account clearly identified as a sewer system capital improvements or facility expansions account and may be spent only for the purposes for which such impact fees were imposed as shown by the capital improvements plan and as authorized by state law.

(c) Interest earned on impact fees in each such account shall be considered funds of the account on which it is earned and shall be subject to all restrictions placed on the use of impact fees under this division and state law.

(d) Adequate records shall be kept and maintained for such accounts which shall show the source and disbursement of all funds placed in or expended from such account. All such records of the accounts into which impact fees are deposited shall be open for public inspection and copying during regular business hours, subject to the provisions of chapter 30 concerning cost of copies.

(Code 1974, § 16-39.5)

Sec. 86-71 Variances and waivers

The city council may grant a variance or waiver from any requirement of this division, upon written request by a developer or owner of property subject to this division, following a public hearing, upon a finding that a strict application of such requirement would result in a confiscation of the property or would result in an unnecessary hardship to the owner of such

property, provided, however, that such a variance or waiver shall not be granted to relieve a self-created or personal hardship, nor shall such a variance or waiver be granted to permit any person a privilege in developing a parcel of land not permitted by this division to other parcels of land similarly situated.

(Code 1974, § 16-39.6)

Sec. 86-72 Appeals

(a) The property owner or applicant for new development may appeal the following decisions to the city council:

(1) The applicability of an impact fee to the development;

(2) The amount of the impact fee due; or

(3) The amount of a refund due, if any, as provided by state law.

(b) The burden of proof shall be on the appellant to demonstrate the inapplicability of an impact fee to the development; that the amount of the impact fee was not calculated according to the applicable requirements of this division; or that the amount of the refund due was not calculated in accordance with state law.

(c) To perfect such an appeal, the applicant must file a notice of appeal with the city secretary within 30 days following the date of the determination being appealed. If the notice of appeal is accompanied by a bond or other sufficient surety satisfactory to the city attorney in an amount equal to the original determination of the impact fee due, the development application may be processed while the appeal is pending, provided, however, that no building permit shall be issued for such development until such appeal is finally determined by the city council. Such appeal shall be considered to be determined on the date the city council takes a final vote upon the question being appealed.

(Code 1974, § 16-39.7)

Sec. 86-73 No effect on taxes or other charges

This division does not prohibit, affect or regulate any tax, fee, charge or assessment specifically authorized by state law or the Charter or ordinances of the city. The fees imposed by this division are in addition to any other taxes, fees, charges or assessments authorized by state law, the Charter or ordinances of the city. This division also does not prohibit, affect or regulate any charges or required construction of improvements for new development for the primary use or benefit of such new development and which are not included in the capital improvements plan for which an impact fee is not imposed under this division and for which the developer or property owner is solely responsible under the division or other applicable ordinances or regulations of the city.

(Code 1974, § 16-39.8)

Sec. 86-74 Authority; application of state law

This division is adopted under the authority and pursuant to the provisions of V.T.C.A., Local Government Code § 395.001 et seq. Such chapter contains additional provisions applicable to the calculation, assessment, imposition and collection of impact fees, and concerning the administration of the capital improvements program and procedures for updates and amendments to the land use assumptions, capital improvements plan and impact fees. All areas covered by such chapter which are not specifically addressed in this division shall be governed by the provisions of V.T.C.A., Local Government Code § 395.001 et seq., and by any additional chapters which the state legislature may enact to the Local Government Code concerning impact fees and the capital improvements plan. If the state legislature amends V.T.C.A., Local Government Code ch. 395 to change any of the definitions contained therein, the definitions of terms contained in this division shall be modified accordingly upon the effective date of such legislative amendment.

(Code 1974, § 16-39.9)

Secs. 86-75–86-95 Reserved

ARTICLE III. WASTEWATER COLLECTION AND TREATMENT*(87)

Division 1. Generally

Sec. 86-96 Purpose and policy

This article sets forth uniform requirements for direct and indirect users of the Publicly Owned Treatment Works for the City of Euless and enables the city to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403).

This article shall apply to all users of the Publicly Owned Treatment Works. The article authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-97 Objectives

(a) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(b) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works;

(c) To ensure quality of sludge to allow its use and disposal in compliance with statutes and regulations;

(d) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

(e) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(f) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works; and

(g) To enable the control authority to comply with its national pollutant discharge elimination system permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the publicly owned treatment works is subject.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-98 Administration

This article shall apply to the city and to persons outside the city who are, by contract or arrangement with the city, users of the POTW. Except as otherwise provided herein, the director of public works shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the director of public works may be delegated by the director of public works to other city personnel.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-99 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - U.S. Environmental Protection Agency

gpd - gallons per day

mg/l - milligrams per liter

NPDES - National Pollutant Discharge Elimination System

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIC - Standard Industrial Classification

SIU - Significant Industrial User

TCEQ - Texas Commission on Environmental Quality

TPDES - Texas Pollutant Discharge Elimination System

TRA - Trinity River Authority

TSS - Total Suspended Solids

TTO - Total Toxic Organics

U.S.C. - United States Code

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-100 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

Act or "the act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

Approval authority means the regional administrator of EPA or the director of a state agency delegated to act on EPA's behalf with an approved pretreatment program (e.g. Director of TCEQ).

Authorized representative of the user.

(1) If the user is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate another

authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the city.

Biochemical oxygen demand or BOD means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Building sewer means a sewer conveying wastewater from the premises of a user to the PTOW.

Categorical pretreatment standard or categorical standard means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

City means the City of Euless or the City Council of Euless, Contracting Party of the Trinity River Authority's Central Regional Wastewater System.

Composite sample means a sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected at constant time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.

Control authority means the Trinity River Authority of Texas as holder of the NPDES permit.

Direct discharge means the discharge of treated and untreated wastewater directly in to the waters of the state.

Director of public works means the person designated by the city who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

Environmental Protection Agency or EPA means the U.S. Environmental Protection Agency or, where appropriate, the regional water management division director, or other duly authorized official of said agency.

Existing source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.

Grab sample means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

Indirect discharge or discharge. The introduction of pollutants into the POTW from any

nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

Industrial user means an industry that discharges wastewater into the wastewater system.

Instantaneous maximum allowable discharge limit means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the control authority's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); 40 CFR 503 sludge regulations; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act and 30 TAC 312; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

Medical waste means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

NPDES (National Pollutant Discharge Elimination System) means the National Pollutant Discharge Elimination System permit program of the Environmental Protection Agency, and/or the permit program of the state agency delegated to act on EPA's behalf with an approved pretreatment program (e.g. TPDES or Texas Pollutant Discharge Elimination System).

National pollution discharge elimination systems of NPDES permit means a permit issued pursuant to section 402 of the act.

National prohibitive discharge standard of prohibitive discharge standard means any regulation developed under the authority of section 307 (b) of the act and 40 CFR 403.5.

New source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

    a. The building, structure, facility, or installation is constructed at a site at which no other source is located; or

    b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing

source; or

c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (1)b. or c. above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

a. Begun, or caused to begin, as part of a continuous onsite construction program

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

Noncontact cooling water means the water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Normal wastewater means the wastewater which the average concentration of suspended solids and five-day BOD does not exceed 250 mg/l each.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the control authority's NPDES permit, including an increase in the magnitude or duration of a violation.

Person means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH means a measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

Pollution means the manmade of man-induced alteration of the chemical, physical, biological and radiological integrity of water.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

Pretreatment standards or standards means the prohibited discharge standards, categorical pretreatment standards, and local limits.

Prohibited discharge standards or prohibited discharges means the absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 86-101.

Publicly owned treatment works or POTW means a “treatment works,” as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the city and/or the control authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Shall is mandatory; may is permissive.

Significant industrial user.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

a. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

b. Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

c. Is designated as such by the city on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Slug load or slug means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in section 86-101 of this article.

Standard industrial classification (SIC) code means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

Stormwater means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

Total toxic organics means the sum of the masses or concentration of the toxic organic compounds listed in 40 CFR 122 Appendix D, Table II, excluding pesticides, found in industrial users' discharge at a concentration greater than 0.01 mg/l. Only those parameters reasonably suspected to be present, at the discretion of the director of public works, if any, shall be analyzed for with non-categorical industries. With categorical industries, TTOs will be sampled for as stipulated in the particular category or those parameters reasonably suspected to be present, at the discretion of the director of public works, where not stipulated.

User means any person who contributes, causes, of permits the contribution of wastewater into the city's POTW.

Wastewater means liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater contribution permit means as set forth in section 86-113 of this article.

Wastewater treatment plant or treatment plant means that portion of the POTW, which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. No. 1574, § 1, 2-11-03)

Division 2. General Sewer Use Requirements

Sec. 86-101 Prohibited discharge standards

(a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

(b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having corrosive properties capable of causing damage or injury to structures, equipment and/or personnel of the POTW, as per the specific prohibition in the applicable local limits in section 86-104. In no case shall wastewater containing a pH less than 5.0 be discharged unless the works is specifically designated to accommodate such discharges;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, blockage, or damage to the POTW.

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants, except at discharge points designated by the director of public works and the control authority in accordance with section 86-111 of this article;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the applicable NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;

(12) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, and unpolluted wastewater, unless specifically authorized by the director of public works and the control authority;

(13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by the director of public works and/or the control authority in a wastewater discharge permit;

(15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than that specified in the applicable local limits in section 86-104;

(18) A discharge of water, normal domestic wastewater, or industrial waste that which in quantity of flow exceeds, for a duration of longer than 15 minutes, more than four times the average 24 hour flow during normal operations of the industry;

(19) Insecticides and herbicides in concentrations that are not amenable to treatment;

(20) Polychlorinated biphenyls;

(21) Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than one-half inch cross-sectional dimension;

(22) Wastewater or industrial waste generated or produced outside the city, unless approval in writing from the director of public works and the control authority has been given to the person discharging the waste; or,

(23) Without the approval of the director of public works and the control authority, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or

stored in such a manner that they could be discharged to the POTW.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-102 National categorical pretreatment standards

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the director of public works may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the director of public works shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-103 Reserved

Sec. 86-104 Local limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge or cause or permit to be discharged, wastewater containing in excess of the following maximum allowable discharge limits into the central regional wastewater system:

0.2 mg/l arsenic

0.1 mg/l cadmium

2.9 mg/l chromium

2.3 mg/l copper

0.5 mg/l cyanide

0.9 mg/l lead

0.0004 mg/l mercury

0.2 mg/l Molybdenum

4.6 mg/l nickel

200 mg/l oil and grease

0.1 mg/l selenium

0.8 mg/l silver

8.0 mg/l zinc

2.13 mg/l TTO

5.5 = pH = 11.0

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The director of public works may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-105 City's right of revision

The city reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-106 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director of public works may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-107 Plant loading

No industry shall discharge wastewater containing a BOD or TSS loading that causes the city's prorata share of the total BOD or TSS loading to the POTW system to exceed the city's prorata share of the total flow to the POTW system. (Example: If the city contributes 25 percent of the

total wastewater flow to the system, the city's cumulative BOD or TSS loading to the system, as measured at the city's points of entry to the system, shall not exceed 25 percent of the total BOD or TSS loading to the system.)

Any industry with a wastewater strength that will cause the city's cumulative wastewater loading, at the city's points of entry, to exceed the city's prorata share of the total wastewater loading based upon flow, shall be required to install pretreatment facilities to reduce its wastewater strength to an acceptable level.

(Ord. No. 1574, § 1, 2-11-03)

Division 3. Pretreatment of Wastewater

Sec. 86-108 Pretreatment facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in section 86-101 of this ordinance within the time limitations specified by EPA, the state, the control authority, or the director of public works, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the director of public works for review, and shall be acceptable to the director of public works before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the city under the provisions of this article.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-109 Additional pretreatment measures

(a) Whenever deemed necessary, the director of public works may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and require such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

(b) The director of public works may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the director of public works, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the director of public works and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(d) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter, or other control device as deemed necessary by the director of public works.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-110 Accidental discharge/slug control plans

At least once every two years, the director of public works shall evaluate whether each permitted significant industrial user needs an accidental discharge/slug control plan. The director of public works may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the director of public works and control authority of any accidental or slug discharge, as required by section 86-131 of this article; and

(d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-111 Hauled wastewater

(a) Septage waste may be introduced into the POTW only at locations designated by the director of public works and control authority, and at such times as are established by the director of public works and control authority. Such waste shall not violate Division 2 of this article or any other requirements established by the city. The director of public works and/or control authority may require septic tank waste haulers to obtain wastewater discharge permits.

(b) Septage waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of generator, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

(Ord. No. 1574, § 1, 2-11-03)

Division 4. Wastewater Discharge Permit Application

Sec. 86-112 Wastewater analysis

When requested by the director of public works, a user must submit information on the nature and characteristics of its wastewater by the deadline stipulated. The director of public works is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-113 Wastewater discharge permit requirement

(a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the director of public works, except that a significant industrial user that has filed a timely application pursuant to section 86-114 of this article may continue to discharge for the time period specified therein.

(b) The director of public works may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Divisions 9 through 12 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements with any other requirements of federal, state, and local law.

(d) Users required to a obtain wastewater contribution permit shall complete and file with the city an application in the form prescribed by the city, accompanied by a fee of $50.00. Existing users shall apply for a wastewater contribution permit within 30 days after the effective date of this article, and proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-114 Wastewater discharge permitting: existing connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to February 11, 2003, and who wishes to continue such discharges in the future, shall, apply to the director of public works for a wastewater discharge permit in accordance with section 86-116 of this article, and shall not cause or allow discharges to the POTW to continue 90 days after February 11, 2003, except in accordance with a wastewater discharge permit issued by The Director of Public Works. If, in The Director of Public Works judgement, the passing of the article does not significantly affect the industrial users current permit, then the existing permit will continue through to the expiration date.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-115 Wastewater discharge permitting: new connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with section 86-116 of this article, must be filed prior to the date upon which any discharge will begin or recommence.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-116 Wastewater discharge permit application contents

All users required to obtain a wastewater discharge permit must submit a permit application. The director of public works may require all users to submit as part of an application the following information:

(1) All information required by section 86-126(b);

(2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

(3) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(4) Each product produced by type, amount, process or processes, and rate of production;

(5) Type and amount of raw materials processed (average and maximum per day);

(6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the director of public works to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-117 Application signatories and certification

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under

my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-118 Wastewater discharge permit decisions

The director of public works will evaluate the data furnished by the user and may require additional information. Within 60 days of receipt of a complete wastewater discharge permit application, the director of public works will determine whether or not to issue a wastewater discharge permit. The director of public works may deny any application for a wastewater discharge permit.

(Ord. No. 1574, § 1, 2-11-03)

Division 5. Wastewater Discharge Permit Issuance Process

Sec. 86-119 Wastewater discharge permit duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the director of public works. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-120 Wastewater discharge permit contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the director of public works to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits must contain:

a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

b. A statement that the wastewater discharge permit is nontransferable without prior notification to the city in accordance with section 86-123, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

c. Effluent limits based on applicable pretreatment standards;

d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and

e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

h. Other conditions as deemed appropriate by the director of public works to ensure compliance with this ordinance, and state and federal laws, rules, and regulations.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-121 Reserved

Sec. 86-122 Wastewater discharge permit modification

The director of public works may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;

(2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

(3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to POTW, POTW personnel, or the receiving waters;

(5) Violation of any terms or conditions of the wastewater discharge permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(8) To correct typographical or other errors in the wastewater discharge permit; or

(9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-123 Wastewater discharge permit transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives advance notice to the director of public works and the director of public works approves the wastewater discharge permit transfer. The notice to the director of public works must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-124 Wastewater discharge permit revocation

The director of public works may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the director of public works of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the director of public works of changed conditions pursuant to section 86-130;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the director of public works timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-125 Wastewater discharge permit reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge

permit reissuance by submitting a complete permit application, in accordance with section 86-116, prior to the expiration of the user's existing wastewater discharge permit.

(Ord. No. 1574, § 1, 2-11-03)

Division 6. Reporting Requirements

Sec. 86-126 Baseline monitoring reports

(a) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the director of public works a report which contains the information listed in paragraph (b), below. At least 90 days prior to commencement of their discharge, new sources, and sources that will become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the director of public works a report which contains the information listed in subsection (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below.

(1) Identifying information. The name and address of the facility, include the name of the operator and owner.

(2) Environmental permits. A list of any environmental control permits held by or for the facility.

(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(4) Flow measurement. Information showing the measured or estimated average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of pollutants.

a. The categorical pretreatment standards applicable to each regulated process.

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the director of public works, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 86-135.

c. Sampling must be performed in accordance with procedures set out in section 86-136.

(6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) Compliance schedule. 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 and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 86-127.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with section 86-117.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-127 Compliance schedule progress reports

The following conditions shall apply to the compliance schedule required by section 86-126(b)(7):

(a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

(b) No increment referred to above shall exceed nine (9) months;

(c) The user shall submit a progress report to the director of public works no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and

(d) In no event shall more than 9 months elapse between such progress reports to the director of public works.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-128 Reports on compliance with categorical pretreatment standard deadline

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director of public works a report containing the information described in section 86-126(b)(4-6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 86-117.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-129 Periodic compliance reports

(a) All significant industrial users shall, at a frequency determined by the director of public works but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 86-117.

(b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the director of public works, using the procedures prescribed in section 86-135 and 86-136, the results of this monitoring shall be included in the report.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-130 Reports of changed conditions

Each user must notify the director of public works of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater before the change is made.

(a) The director of public works may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 86-116.

(b) The director of public works may issue a wastewater discharge permit under Section 86-118 of this ordinance or modify an existing wastewater discharge permit under section 86-122 in response to changed conditions or anticipated changed conditions.

(c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent 20 percent or greater, and the discharge of any previously unreported pollutants that are determined to be of concern.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-131 Reports of potential problems

(a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the city and the control authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(b) Within five days following such discharge, unless waived by the director, the user shall submit a detailed written report describing the cause(s) 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, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.

(c) 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 discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-132 Reports from unpermitted users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the director of public works as the director of public works may require.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-133 Notice of violation/repeat sampling and reporting

If sampling performed by a user indicates a violation, the user must notify the director of public works within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the director of public works within 30 days after becoming aware of the violation. The user is not required to resample if the director of public works monitors at the user's facility at least once a month, or if the director of public works samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-134 Notification of the discharge of hazardous waste

(a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under section 86-130. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 86-126, 86-128, and 86-129.

(b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the director of public works, the POTW, the EPA regional waste management waste division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-135 Analytical requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical

pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-136 Sample collection

(a) Except as indicated in subsection (b), below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the director of public works may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be used to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-137 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-138 Record keeping

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the city, or where the user has been specifically notified of a longer retention period by the director of public works and/or control authority.

(Ord. No. 1574, § 1, 2-11-03)

Division 7. Compliance Monitoring

Sec. 86-139 Right of entry: inspection and sampling

The director of public works and/or the control authority, TCEQ, or USEPA or their designated

representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow inspecting or sampling person ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the city, control authority, TCEQ or USEPA will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The director of public works and/or control authority shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations. All sampling and analysis performed by the director of public works and/or control authority to monitor compliance shall be at the expense of the industrial user.

(3) The director of public works and/or control authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated, at a minimum, annually to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the director of public works and/or control authority and shall not be replaced. The costs of clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the inspecting or sampling person access to the user's premises shall be a violation of this article.

(6) In accordance with 40 CFR 403, the city shall inspect and monitor each permitted industrial user a minimum of once per year. If the city elects to perform compliance monitoring for the industry then the city will monitor the industry a minimum of semi annually.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-140 Search warrants

If the director of public works and/or control authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the city designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the director of public works and/or control authority may seek issuance of a search warrant from the an appropriate court.

(Ord. No. 1574, § 1, 2-11-03)

Division 8. Confidential Information

[Sec. 86-140.1 User information as public record]

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the city and/or control authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, 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 immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. No. 1574, § 1, 2-11-03)

Division 9. Publication of Users in Significant Noncompliance

[Sec. 140.2 Publication in newspaper; noncompliance defined]

The director of public works shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except Ph);

(3) Any other discharge violation that the director of public works and/or control authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director of public work's or control authority's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation(s) which the director of public works determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. 1574, § 1, 2-11-03)

Division 10. Administrative Enforcement Remedies

Sec. 86-141 Notification of violation

When the director of public works finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may serve upon that user a written notice of violation. Within the time frame specified in the notice, which is usually, but not always ten days, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the director of public works. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director of public works to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-142 Reserved

Sec. 86-143 Show cause hearing

(a) 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 days before the hearing. Service may be made on any agent or officer of a corporation.

(b) 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 assigned department to:

(1) Issue in the name of the city council notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.

(2) Take the evidence.

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city council for action thereon.

(c) At any hearing held pursuant to this article, 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.

(d) 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 or existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-144 Compliance orders

When the director of public works finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-145 Cease and desist orders

When the director of public works finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user’s past violations are likely to recur, the

director of public works may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-146 Reserved

Sec. 86-147 Emergency suspensions

The director of public works may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The director of public works may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director of public works may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director of public works may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director of public works that the period of endangerment has passed, unless the termination proceedings in section 86-148 are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director of public works prior to the date of any show cause or termination hearing under sections 86-143 or 86-148.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-148 Termination of discharge

In addition to the provisions in section 86-124, any user who violates the following conditions is subject to discharge termination:

(1) Violation of wastewater discharge permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

(4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or

(5) Violation of the pretreatment standards in Division 2.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 86-143 why the proposed action should not be taken. Exercise of this option by the director of public works shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 1574, § 1, 2-11-03)

Division 11. Judicial Enforcement Remedies

Sec. 86-149 Injunctive relief

When the director of public works finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director of public works may petition the appropriate court through the city's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user. The director of public works may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-150 Civil penalties

(a) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the city for a maximum civil penalty of $1,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The director of public works may recover reasonable attorneys' fees, court costs, and

other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the city.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-151 Criminal prosecution

(a) A user who violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than $2,000.00 per violation, per day, or imprisonment as decided by an appropriate court, or both.

(b) A user who negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to the same penalties described in section 86-151(a). This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or renders inaccurate any monitoring device or method required under this article shall, upon conviction, be subject to the same penalties described in section 86-151(a).

(d) Criminal responsibility. A culpable mental state is not required to prove an offense under this article. A person is criminally responsible for a violation of this article if:

(1) The person commits or assists in the commission of a violation, or causes or permits another person to commit a violation; or

(2) The person owns or manages the property or facilities determined to be the cause of the illegal discharge under sections 86-101, 86-102, 86-104, 86-111, or 86-113.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-152 Remedies nonexclusive

The remedies provided for in this ordinance are not exclusive. The director of public works may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response

plan. However, The director of public works may take other action against any user when the circumstances warrant. Further, the director of public works is empowered to take more than one enforcement action against any noncompliant user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-153 Applicability of more stringent regulations

(a) If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in this article are promulgated by the United States Environmental Protection Agency for certain industries, the more stringent national pretreatment standards will apply to the affected industrial user. A violation of the more stringent national pretreatment standards will also be considered a violation of this article.

(b) Applicability of more stringent discharge limits. An industrial user within the city who discharges industrial waste ultimately received and treated by another governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the city is subject to the following additional rules:

(1) If the governmental entity has more stringent discharge limits than those prescribed by this article, or by a discharge permit issued hereunder, because the United States Environmental Protection Agency requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.

(2) The director of public works is authorized to issue a discharge permit to an industrial user affected by subsection (1), to insure notice of and compliance with the more stringent discharge limits. If the industrial user already has a discharge permit, the director of public works may amend the permit to apply and enforce the more stringent discharge limits. An industrial user shall submit to the director of public works an expected compliance date and an installation schedule if the more stringent discharge limits necessitate technological or mechanical adjustments to discharge facilities or plant processes.

(3) If the director of public works chooses not to issue or amend a permit under subsection (2), the director of public works shall notify the affected industrial user in writing of the more stringent discharge limits and their effective date. Regardless of whether or not a permit is issued or amended, an industrial user shall be given a reasonable opportunity to comply with the more stringent discharge limits.

(4) The more stringent discharge limits cease to apply upon termination of the city's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the United States Environmental Protection Agency. The director of public works shall take the appropriate action to notify the affected industrial user of an occurrence under this subsection (4).

(c) Variances in compliance dates. The director of public works may grant a variance in compliance dates to an industry when, in the director of public work's opinion, such action is

necessary to achieve pretreatment or corrective measures. In no case shall the director of public works grant a variance in compliance dates to an industry affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.

(d) Authority to regulate. The director of public works may establish regulations, not in conflict with this article other laws, to control the disposal and discharge of industrial waste into the wastewater system and to insure compliance with the city's pretreatment enforcement program with all applicable pretreatment regulations promulgated by the United States Environmental Protection Agency. The regulations established shall, where applicable, be made part of any discharge permit issued to an industrial user by the director of public works.

(Ord. No. 1574, § 1, 2-11-03)

Division 12. Affirmative Defenses to Discharge Violations

Sec. 86-154 Action brought in federal court only: Upset provision

(a) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c), below, are met.

(c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the director of public works within 24 hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five days:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

(e) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-155 Action brought in municipal or state court only: Act of God provision

(a) An event that would otherwise be a violation that is caused solely by an act of God, war, strike, riot, or other catastrophe is not a violation.

(b) In any enforcement proceeding, the user seeking to establish the occurrence of an act of God, war, strike, riot, or other catastrophe shall have the burden of proof.

(c) In the event that (a) and (b) above has been demonstrated the user shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-156 Bypass

(a) For the purposes of this section:

Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.

(c) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the director of public works, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the director of public works of an unanticipated

bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director of public works may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(d) (1) Bypass is prohibited, and the director of public works may take an enforcement action against a user for a bypass, unless

a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

c. The user submitted notices as required under paragraph (c) of this section.

(2) The director of public works may approve an anticipated bypass, after considering its adverse effects, if the director of public works determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

(Ord. No. 1574, § 1, 2-11-03)

Division 13. Miscellaneous Provisions

Sec. 86-157 Pretreatment charges and fees

(a) The city may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

(1) Fees for wastewater discharge permit applications including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

(3) Fees for reviewing and responding to accidental discharge procedures and construction;

(4) Fees for filing appeals; and

(5) Other fees as the city may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the city.

(6) Fees for treating abnormal strength wastes

(7) Fees incurred from an upset, bypass or unauthorized discharge.

(b) Surcharge.

The city may surcharge industrial users for the treating of abnormal strength wastes. Water or wastes having 1) a five day biochemical oxygen demand greater than 250 parts per million (ppm) by weight or 2) containing more than 250 parts per million by weight of total suspended solids shall be subject to the review and approval of the director of public works. Where the director of public works has approved the admission of (1) or (2) above into the POTW, that discharge may be subject to a surcharge as determined by the director of public works. In no case shall a discharge be accepted that will prevent the POTW from meeting its limits.

The surcharge will be assessed according to the following formula each month using the most current pollutant concentration data and the current months' wastewater flow:

Surcharge = Q/1,000,000 x [a(BOD - x) + b(TSS - y)][8.34]

Where:

Q = flow in gallons

8.34 = weight in pounds of one gallon of water

x = normal limits of BOD in domestic wastewater expressed in milligrams per liter

y = normal limits of TSS in domestic wastewater expressed in milligrams per liter

a = unit cost of treatment per pound of BOD

b = unit cost of treatment per pound of TSS

BOD = measured amount of BOD, in mg/l

TSS = measured amount of TSS, in mg/l

A surcharge is an additional charge by the POTW for the increased cost of handling discharge of unusual strength and character and shall not serve as a variance to the requirements of this article. Exercise of this provision shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. No. 1574, § 1, 2-11-03)

Sec. 86-158-86-160 Reserved

ARTICLE IV. DRAINAGE*(88)

Division 1. Drainage Utility System

Sec. 86-161 Findings of fact

The city council finds it to be in the public interest to protect the public health and safety from loss of life and property caused by surface water overflows and surface water stagnation within the boundaries of the city and further finds that to protect such public interests the city:

(1) Has established in chapter 30 a schedule of drainage charges against all real property in the city subject to charges under V.T.C.A., Local Government Code § 402.041 et seq.

(2) Will provide drainage for all real property within the city on payment of drainage charges, except such real property which may be exempted therefrom as authorized by law.

(3) Will offer such drainage service on nondiscriminatory, reasonable and equitable terms.

(Ord. No. 1036, § I, 10-23-90)

Sec. 86-162 Municipal drainage utility system–Established; authority; adoption of state law

(a) The municipal drainage utility system is herewith and hereby established and declared to be a public utility. The city shall have full authority to operate such municipal drainage utility system pursuant to the authority given and contained under article XI, section 5, of the state Constitution; the city Charter; and V.T.C.A., Local Government Code § 402.041 et seq.

(b) V.T.C.A., Local Government Code § 402.041 et seq. is adopted.

(Ord. No. 1036, § II, 10-23-90)

Sec. 86-163 Same–Rules of operation

The city council may, by ordinance, enact such further rules for the operation and administration of the municipal drainage utility system as the council deems necessary or useful for the efficient operation of such utility system.

(Ord. No. 1036, § III, 10-23-90; Ord. No. 1040, § III, 12-11-90; Ord. No. 1045, § III, 4-9-91)

Sec. 86-164 Same–Schedule of charges

The schedule of charges for the drainage system is as listed in section 30-41.

(Ord. No. 1040, § I, 12-11-90)

Cross reference–Drainage charges levied, § 30-41.

Sec. 86-165 Same–Levy of drainage charges, public hearing

Prior to the levy of any drainage charges for the financing and funding of the municipal drainage utility system, the city council shall hold a public hearing on such charges pursuant to state law.

(Ord. No. 1036, § IV, 10-23-90)

Cross reference–Drainage fees and charges, § 30-41.

Sec. 86-166 Same–Adjustment of drainage charges

The city council may change, adjust and readjust the rates and charges established in this article for drainage services from time to time by ordinance.

(Ord. No. 1040, § II, 12-11-90)

Cross reference–Drainage fees and charges, § 30-41.

Sec. 86-167 Same–Late payment of drainage charges, penalty; interest

(a) Municipal drainage utility charges shall be due and payable on or before the tenth day after the date of each billing; if such charges are not paid within 25 days from the date of a billing, a penalty shall be added in the amount of ten percent of the past due amount. Receipt of a check that is dishonored shall be deemed nonpayment, and there shall be an additional bad check service charge.

(b) If municipal drainage utility charges remain unpaid on the 30th day after the date of the bill, interest shall accrue on the past due amount (excluding penalty) at the rate of nine percent per annum, beginning on the 30th day after the date of such billing and continuing for each succeeding month or fraction thereof until such municipal drainage utility charges are paid in full.

(Ord. No. 1045, § I, 4-9-91; Ord. No. 1237, § 3, 8-12-97)

Cross reference–Drainage fees and charges, § 30-41.

Division 2. Discharge

Sec. 86-168 Illicit discharge

(a) Administration. The director of public works and/or the director's designated representatives are authorized to administer, implement and enforce the provisions related to

illicit discharge.

(b) Definitions. Unless explicitly stated otherwise, the following terms and phrases, as used in this section, shall have the meanings hereinafter designated.

C.F.R. means Code of Federal Regulations.

City means City of Euless, Texas.

Director means the director of public works for the City of Euless.

Discharge means any addition or introduction of any pollutant, stormwater or any other substance into the municipal separate storm sewer system (MS4).

Discharger means any person or entity who causes or allows a discharge including the operator of a construction site.

Fire department means the fire department of the City of Euless or a mutual aid city.

Municipal separate storm sewer system (MS4) means the system of conveyances (including sidewalks, streets, curbs, gutters, storm drain inlets, storm drain pipes, roadside swales, detention ponds, creeks, streams or channels) designed or used for collecting and/or conveying stormwater.

Person means any individual, partnership, corporation, firm, company or any other legal entity.

Stormwater means any flow occurring during or following any form of natural precipitation.

TPDES means Texas Pollutant Discharge Elimination System.

(c) Discharge to MS4 prohibited.

(1) A person commits an offense if the person introduces or causes to be introduced into the MS4 any discharge that is not composed entirely of stormwater.

(2) It is an affirmative defense to any enforcement action for a violation of subsection (c) that the discharge was composed of one or more of the following categories of discharges:

a. A discharge authorized by and in compliance with a TPDES permit.

b. A discharge or flow resulting from fire fighting by the fire department.

c. A discharge or flow from water line flushing or disinfection that contains no harmful quantity of chlorine residual.

d. A discharge or flow from lawn watering or landscape irrigation.

e. A discharge or flow from uncontaminated pumped groundwater or rising groundwater.

f. Uncontaminated groundwater infiltration (as defined in 40 C.F.R. and 35.2005(20)) to the MS4.

g. Uncontaminated discharge or flow from a foundation drain, crawl space pump or footing drain.

h. A discharge or flow from air conditioning condensation.

i. A discharge or flow from individual residential car washing.

j. A discharge or flow from water used in street sweeping.

k. Drainage from a private residential swimming pool containing no harmful quantity of chlorine or other chemicals. Drainage of swimming pool filter backwash is prohibited.

l. A discharge or flow of uncontaminated stormwater pumped from an excavation.

(d) Sanitary sewer connection prohibited.

(1) A person commits an offense if the person connects a line or pipe conveying sewage to the MS4.

(2) The connection of a line or pipe that conveys sewage to the MS4 is hereby deemed a nuisance.

(e) Lawn maintenance debris prohibited.

(1) A person commits an offense if the person sweeps, blows or directs into the MS4 grass clippings, leaves, branches or lawn maintenance debris and allows it to remain.

(2) The introduction of grass clippings, leaves, branches or lawn, maintenance debris into the MS4 is hereby deemed to be a nuisance.

(3) Lawn maintenance companies shall instruct employees of this requirement.

(Ord. No. 1872, § 1, 4-27-10)

Secs. 86-169–86-190 Reserved

ARTICLE V. ELECTRIC

Division 1. In General

Secs. 86-191–86-200 Reserved

Division 2. Retail Electric Providers

Sec. 86-201 Retail electric provider registration

Pursuant to the city's authority under V.T.C.A. § 39.358, as a condition of serving residents in the city, all retail electric providers (as defined in V.T.C.A. § 31.002), shall register with the city in accordance with this division.

(a) Registration of retail electric providers.

(1) Registration. All retail electric providers ("REP") prior to serving residents in the city, must complete and file with the city secretary the REP registration form provided by the city. Registration will be issued in the name of the retail electric provider as registered with the Public Utility Commission of Texas. When any information provided on the city registration form changes, the REP must inform the city of the change no more than 30 days after the date the change is made.

(2) The registration form shall include:

a. The name of the retail electric provider and PUCT docket file no.;

b. The names, addresses, and telephone numbers of the contact person(s) for the retail electric provider in the city;

c. A telephone number for an emergency contact at the REP which shall be available 24 hours a day;

d. Require an attached copy of the application for retail electric provider certification, as filed with the PUCT;

(b) Compliance with Texas Public Utility Commission Customer Service Standards and V.T.C.A. chapter 39.

All REPs that provide electric service to residents in the city shall strictly comply with all requirements of V.T.C.A. chapter 39, particularly section 39.101 on "Customer Safeguards" and section 39.353(c) concerning REP compliance with customer protection provisions and marketing guidelines established by the PUCT; and all PUCT customer protection requirements, including but not limited to PUCT Substantive Rule § 25.107(h), which includes the following minimum standards:

(1) A REP may not refuse to provide retail electric service or otherwise discriminate in the provision of electric service to any customer because of race, creed, color, national origin, ancestry, sex, marital status, lawful source of income, disability, or familial status; or refuse to provide retail electric service to a customer because the customer is located in an economically distressed geographic area or qualifies for low-income affordability or energy efficiency services.

(2) A REP shall inform its customers whom to contact and what to do in the event of power outage or other electricity-related emergency.

(3) A REP shall inform its customers of the customer's rights and avenues available to pursue a complaint against the REP as afforded by PURA [V.T.C.A.] § 39.101.

(4) A REP shall not switch, or cause to be switched, the retail electric provider for a customer without first obtaining proper authorization from the customer.

(5) A REP shall not bill, or cause to be billed, an unauthorized charge to a customer's retail electric service bill.

(6) A REP shall respond in good faith when notified by a customer of a complaint.

(7) A REP shall maintain a customer service staff adequate to handle customer inquiries and complaints.

(8) A REP may not release proprietary customer information to any person unless the customer authorizes the release in a manner approved by the commission.

(c) Enforcement, suspension and revocation of registration.

(1) Pursuant to the city's authority under V.T.C.A. § 39.358(b), after 21 days prior written notice to a REP detailing any significant violation of V.T.C.A. chapter 39 or of any rules adopted by the PUCT under that chapter, ("Notice of Material Violations") the city council may consider suspending or revoking the city registration, however, if within 14 days of the date of the notice of material violations a written request is made by the REP to make a presentation to city council, the REP shall have a reasonable opportunity to be heard at city council, either in writing or by a personal representative, prior to any city council action. Twenty-one days after such notice of material violations and after an opportunity to be heard by the REP, if requested, the city council may suspend or revoke a registration of a REP with the city. Upon such suspension or revocation, the REP may no longer provide electric services to residents in the city, until such suspension has expired.

(2) By way of example, the PUCT has provided a non-exclusive list of significant violations, which include the following:

a. Providing false or misleading information to the PUCT.

b. Engaging in fraudulent, unfair, misleading, deceptive, or anti-competitive business practices or unlawful discrimination;

c. Switching, or causing to be switched, the retail electric provider for a customer without first obtaining the customer's permission.

d. Billing an authorized charge, or causing an unauthorized charge to be billed to a customer's retail electric service bill.

e. Failure to maintain continuous and reliable electric service to its customers pursuant to PUCT Rule § 25.107;

f. Failure to maintain the minimum level of financial resources set out in subsection (f) of this § 25.107;

g. Bankruptcy, insolvency, or the inability to meet financial obligations on a reasonable and timely basis;

h. Failure to timely remit payment for invoiced charges to a transmission and distribution utility pursuant to the terms of the statewide standardized tariff adopted by the commission;

i. Failure to observe any scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, and procedures established by the PUCT authorized independent organization;

j. A pattern of not responding to PUCT authorized inquiries or customer complaints in a timely fashion;

k. Suspension or revocation of a registration, certification, or license by any state or federal authority;

l. Conviction of a felony by the certificate holder or principal employed by the certificate holder, of any crime involving fraud, theft or deceit related to the certificate holder's service;

m. Not providing retail electric service to customers within 24 months of the certificate being granted by the commission;

n. Failure to serve as a provider of last resort if required to do so by the commission pursuant to PURA [V.T.C.A.] § 39.106(f); and

o. Failure, or a pattern of failures to meet the conditions of PUCT Rule § 25.107 or other PUCT rules or orders.

(Ord. No. 1515, § 1, 12-11-01)

CHAPTERS 87 - 89
RESERVED

CHAPTER 90

VEHICLES FOR HIRE*(89)

ARTICLE I. IN GENERAL

Secs. 90-1–90-25 Reserved

ARTICLE II. EMERGENCY MEDICAL VEHICLES*(90)

Sec. 90-26 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Emergency ambulance means a motor vehicle, airplane or helicopter used primarily for emergency ambulance transportation in, about or outside the city.

Emergency ambulance service means emergency transportation service furnished to citizens of and other persons within the city where there has been a death, personal injury or other emergency requiring the removal of injured persons to a hospital or medical facility for treatment.

Funeral home or undertaker means any person duly licensed by the state to perform embalming service and prepare the bodies of deceased persons for interment.

(Code 1974, § 15-1)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 90-27 Emergency medical vehicles–Permit required, period

No person shall engage in the business of operating an emergency ambulance service for hire within the city without an emergency ambulance service permit from the city. All emergency ambulance service permits issued by the city shall expire on May 1 of each year and those emergency ambulance service operators intending to continue their service shall each year file a written application for such permit containing the information and in the form prescribed in section 90-28.

(Code 1974, § 15-2)

Sec. 90-28 Same–Permit application

All applicants for an emergency ambulance service permit must furnish the city secretary with the following:

(1) A written application stating the location of the applicant's principal place of business and the place where the emergency vehicles are normally kept and maintained.

(2) The applicant must furnish satisfactory evidence of personal injury and property damage liability coverage in an amount not less than $25,000.00 for personal injury and $10,000.00 for property damage.

(3) The written application for an emergency ambulance service permit must contain a statement of the applicant's normal rates or charges.

(4) A written statement by the applicant that the applicant's ambulance drivers shall at all times have a current commercial state driver's license.

(5) The applicant agrees to maintain emergency ambulance vehicles and equipment in operating condition with such minimum safety standards and requirements as may be from time to time required by the chief of police of the city.

(Code 1974, § 15-3)

Sec. 90-29 Same–Payment of charges

Regulations governing payment of charges for ambulance services are as follows:

(1) Any emergency ambulance service operator picking up a dead body from the streets or elsewhere in the city, having answered an emergency call, may take and keep the body at the ambulance service's usual place of business until some relative authorized to make funeral arrangements authorizes such emergency ambulance service operator to proceed with the preparing of the body for interment.

(2) If relatives or friends having authority to make arrangements for the funeral shall desire that some other undertaker or funeral home take charge of the body, it shall be the duty of the operator having such body in his possession to turn over the body to the funeral home or undertaker selected by friends or relatives having necessary authority, upon payment of the charges for providing emergency care and treatment for the deceased.

(3) Any person, including the parent or guardian of a minor, knowingly using the services of an emergency ambulance operator holding permit to do business within the city shall be liable to such emergency ambulance operator for the amount of charges not to exceed the amount currently charged by the emergency ambulance operator and as set forth in his application to do business within the city. Such charge shall not exceed the amounts on file in the city secretary's office for providing services for the injured or ill person, provided that the limits shall not apply to amount of service charges for contract transportation outside the city.

(4) This section shall likewise apply in each case where any person disabled by injury or illness requires an emergency ambulance service, and the emergency ambulance service is called upon for ambulance service by the dispatcher of the police department, or by the director of public health of the city, to transport the injured or ill person to a hospital or clinic or his dwelling.

(5) In addition to other remedies, the emergency ambulance service operator rendering the service shall have a right to enforce this section by civil action in collecting for rendered services.

(Code 1974, § 15-4)

Secs. 90-30–90-45 Reserved

ARTICLE III. TAXICABS AND OTHER PUBLIC VEHICLES

Sec. 90-46 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Public vehicle means and includes any motor vehicle operated within the city for the purpose of carrying passengers for hire, except motorbuses operating on fixed routes as specified in this article, specially chartered buses and driverless cars. The term shall also include motor-driven vehicles with or without a taximeter and hired or rented where rates are charged on the time basis or otherwise.

(Code 1974, § 15-20)

Cross reference–Definitions and rules of construction generally, § 1-2.

Sec. 90-47 Applicability of article

The operation of public vehicles shall be subject to the conditions, regulations and restrictions set forth in this article, and it shall be unlawful to operate or cause to be operated in the city any public vehicle unless a license therefor shall have been issued to the owner thereof in accordance with the conditions, regulations and restrictions prescribed by this article. However, this article shall apply only to vehicles operating wholly or principally within the city and shall not affect motor bus companies regulated by the state motor bus transportation act, and it shall not affect motor buses operating on fixed routes and upon fixed schedules of time and fare, specially chartered buses, sight-seeing buses, driverless cars or motor buses owned and operated by any street railway company under authority of the general laws of the state.

(Code 1974, § 15-21)

Sec. 90-48 Certificate and license required

No public vehicle shall operate for the transportation of persons as passengers for compensation or hire within the city without first having obtained from the city council under the provisions of this article a certificate declaring that the public convenience and necessity require such operation and without having a license as provided by this article.

(Code 1974, § 15-22)

Sec. 90-49 Certificate of public convenience and necessity–Application

Application for a certificate of public convenience and necessity for the operation of public vehicles within the city shall be made to the city council and shall provide the following:

(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 the applicant desires to operate;

(4) The class, seating capacity, design and color scheme of each vehicle and the lettering and marks to be used thereon;

(5) Whether the applicant has been convicted of the violation of any federal, state or municipal law;

(6) Whether the applicant or any person with whom he has been associated or employed has claims or judgments against them for damages resulting from the negligent operation of a public vehicle;

(7) The financial ability and responsibility of the applicant;

(8) His ability to respond in damages in the event of injury to person or damage to property by reason of the negligent operation of a public vehicle;

(9) If the applicant is a firm or corporation, its organization and personnel;

(10) The nature and character of service that the applicant proposes to render;

(11) Facts showing the demand for the service;

(12) The experience that the applicant has had in rendering such service and the period of time that he has rendered it in the city;

(13) The price that he proposes to charge for such service;

(14) Facts showing that adequate and dependable service can be rendered for the prices stipulated and that they are not in excess of fair and reasonable charges to be made for such service; and

(15) Any other information as may be required by the city council.

(Code 1974, § 15-23)

Sec. 90-50 Same–Investigation of applicant; factors considered

(a) The city council shall make or cause to be made such investigations as it may consider necessary, including any hearings that it may deem desirable, as to any applications for

certificates of public convenience and necessity, and shall determine whether the public convenience and necessity require the operation of the vehicle or vehicles and whether the applicant is fit and proper to conduct such business, and may investigate the fitness of the officers and stockholders of any corporation making such application. In determining whether a certificate should be issued, the city council shall give weight and due regard, among other things, to:

(1) Probable permanence and quality of the service offered by the applicant, the experience that the applicant has had in rendering such service, the past experience of the applicant in adjusting claims and paying judgment, if any, to claimants as a result of injuries received from the negligent operation of public vehicles;

(2) The financial ability of the applicant to respond in damages to claims or judgments arising by reason of injury to person or damage to property resulting from negligent operation of a public vehicle;

(3) The prices the applicant proposes to charge for the service to be rendered will not exceed that which is provided by ordinance of the city in effect at time of filing the application; and

(4) The character and condition of the vehicles to be used.

(b) The evidence in any investigation, inquiry or hearing may be taken by the city council or by the city manager, and such evidence of agent or employee to whom such investigation, inquiry or hearing has been assigned by the city council, or such investigation, inquiry or hearing, when adopted, approved or affirmed by the city council, shall be the finding, opinion or order of the city council.

(Code 1974, § 15-24)

Sec. 90-51 Same–Issuance; denial

(a) If the city council finds that the public convenience and necessity require the operation of a greater or lesser number of vehicles that that for which a certificate of public convenience and necessity has been applied, and the applicant is fit to conduct the business and that the other requirements of this article have been complied with, the city secretary shall issue to the applicant a certificate of public convenience and necessity accordingly.

(b) If the city council finds that public convenience and necessity do not require the operation of any such vehicles or that the applicant is not fit to conduct such business, it shall forthwith refuse the application and no certificate or license shall be issued to the applicant.

(Code 1974, § 15-25)

Sec. 90-52 Same–Transfer; substituting and adding vehicles

(a) Certificates of public convenience and necessity shall not be transferable without the consent and approval of the city council after application and hearing as provided upon original application by the person to whom the certificate is issued; however, the applicant may, by

appropriate endorsement made on such certificate under the direction of the city council, substitute another vehicle or vehicles in the place of that for which the certificate was granted.

(b) Should the city council find that public convenience and necessity at any time require additional taxicab service, preference shall be given to the persons or companies operating existing service, should they be willing to furnish it.

(Code 1974, § 15-26)

Sec. 90-53 Same–Cancellation

The officers charged with enforcing this article will promptly report any violations of the provisions of this article or any other valid ordinance passed by the city council, or any facts showing a change in the conditions existing at the time the license to operate any public vehicle was issued, which shall subject the certificate of convenience and necessity that may be granted under this article to cancellation. The certificate may be canceled after ten days' notice and after a full hearing thereon if in the discretion of the city council the cancellation is in the public interest.

(Code 1974, § 15-27)

Sec. 90-54 License

(a) Upon presentation of a certificate of public convenience and necessity within 30 days of its date and satisfactory evidence that all rent fees have been paid to the city, and that such other fees and taxes, including ad valorem taxes, as may be required by law, have been fully paid, the city secretary shall issue to the applicant a license for each vehicle specified in the certificate; provided, however, any certificate issued under this article shall be effective until canceled, and no additional certificates shall be required for the purpose of obtaining a license so long as the original certificate remains in effect and the applicant strictly complies with all the requirements and provisions of this article, and provided further that such owner or operator of a public vehicle for hire shall be strictly limited to the character and type of operation as evidenced by the application and as specified in the certificate and license.

(b) No license for the operation of a public vehicle shall be issued, nor shall any public vehicle be operated within the city, unless and until the city council has issued a certificate under the terms and provisions of this article that public convenience and necessity require the operation thereof.

(Code 1974, § 15-28)

Sec. 90-55 Street rental

The city council at the time of issuing a certificate of public convenience and necessity shall charge each grantee a reasonable rental based upon the number of taxicabs operated, streets and thoroughfares used, number of miles traveled thereon, and the number of passengers transported, as compensation for rental for the use and occupancy of the streets and thoroughfares of the city. The rental is to be paid at the office of the city secretary in accordance with the terms and provisions of the certificate. The city council may at any time

increase or decrease the rental charge due to a change in conditions or an increase or decrease of the use of the streets of the city after ten days' notice to any and all persons operating in the city pursuant to a certificate of public convenience and necessity issued pursuant to the provisions of this article.

(Code 1974, § 15-29)

Sec. 90-56 Driver's permit–Required, application, term

(a) No person shall drive or operate a public vehicle in the city unless he has been issued a permit to do so by the chief of police, which shall be granted only after submitting himself to a physical examination which shall show that he is physically able to perform such work.

(b) In his application he shall state the following:

(1) His name, street address, age, period of experience in operating public vehicles;

(2) That he is not addicted to any habits that would impair his physical ability to operate such vehicle;

(3) Whether he has ever been convicted of any offense against the laws of the city, state or nation, and if so, the nature of such convictions;

(4) His place of residence for the three years preceding the date of such application;

(5) The length of his residence in the city immediately prior to the making of the application; and

(6) Such other information as the chief may require.

(c) This permit shall be in force and effect for one year from the date of its issuance unless otherwise canceled or revoked by the chief.

(Code 1974, § 15-30)

Sec. 90-57 Same–Driver to display license and permit

A description of the owner's license and the driver's permit shall be attached to the vehicle in some conspicuous place where it may be easily seen by passengers and shall state the number of the car license and such other facts as will properly identify it, the dates that the license and the permit were issued and any other information that may be deemed proper by the chief of police.

(Code 1974, § 15-31)

Sec. 90-58 Vehicle condition

The city council shall from time to time cause to be made an inspection of public vehicles, and if any vehicle shall be found unfit or unsafe for operation, notice shall be given to the holder of the

certificate of public convenience and necessity and license thereof, and the vehicle shall not be operated thereafter until it has been put in a safe and fit condition.

(Code 1974, § 15-32)

Sec. 90-59 Waiting on streets

It shall be unlawful for any owner or operator to permit a public vehicle to stand waiting for employment upon any public street or public property within the city, but it must stand and remain, except while in the immediate act of discharging or taking on passengers, upon and within private depots and grounds upon private premises.

(Code 1974, § 15-33)

Sec. 90-60 Soliciting patronage

No owner, employee or other person in behalf of the owner or operator of any public vehicle shall solicit, by word, signal or otherwise, patronage for the public vehicle on any public street or public property or sidewalks of the city, and such persons are prohibited from cruising, seeking employment or in any manner soliciting, by word, signal or otherwise, patronage for such vehicles while in operation or in use upon any public street or public property.

(Code 1974, § 15-34)

Sec. 90-61 Holding out vehicle as taxicab without authority

No person shall use the terms “taxi” or “taxicab” or “for hire automobile” or “for hire car” or “auto rental” or in any way advertise or hold himself out as a taxicab company or operator or for hire automobile company or operator or represent himself to be such by means of advertisements, signs, trade names or otherwise unless he has previously thereto complied with the conditions, regulations and restrictions prescribed by this article.

(Code 1974, § 15-35)

Sec. 90-62 Trip records

The owner or operator of public vehicles shall keep a daily record of the transportation or trips of each vehicle, and such record shall show in detail the hour and place of departure and return of each trip, its destination and the name of the operator of the vehicle.

(Code 1974, § 15-36)

Sec. 90-63 Penalties

(a) Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and the person, or any employee, agent, manager or officer thereof, who is guilty of violating any of the provisions of this article shall upon conviction be punished as provided in section 1-12 for each offense. In case of willful or continued violations by any person, or his employees, agents, servants or officers, the city shall have power to revoke and repeal any

license, permit, privilege and franchise granted to the person.

(b) In case of any willful violation of any of the terms and provisions of this article, the city, in addition to imposing the penalties above provided, may institute any appropriate action or proceeding in any court having jurisdiction, to restrain, correct or abate such violation. The definition of any violation as a misdemeanor shall not preclude the city from invoking the civil remedies given it by the laws of the state.

(Code 1974, § 15-37)

Secs. 90-64–90-80 Reserved

ARTICLE IV. TOW TRUCKS AND NONCONSENT TOWS*(91)

Sec. 90-81 Requirements

(a) Scope of activity for which required. No person shall drive, operate or cause to be operated, nor shall any person employ, permit or allow another to drive, operate or cause to be operated, any tow truck over any street in the city for the purpose of removing, moving or towing of any vehicle without first being properly licensed, insured and equipped in accordance with state law and the state department of licensing and regulation regulations.

(b) All tow trucks originating a consent tow within the city must comply with the licensing and equipment regulations and adhere to the specific tow truck classifications for the specific use of that tow truck as set forth in state law and the state department of licensing and regulation regulations.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-82 Definitions

Abandoned. The condition of being abandoned, as defined in V.T.C.A., Transportation Code ch. 683, as amended.

Attempt to retrieve the motor vehicle. For purposes of paying the drop charge, attempt to retrieve the motor vehicle means any verbal request that a reasonable person would understand to mean, “Do not tow my car.”

Before its removal from the property. As used in this chapter this term is in reference to a vehicle parked on property other than a public roadway and shall mean the time period until the tow truck enters a public street, road or highway,

City. The City of Euless in the County of Tarrant and State of Texas.

Consent tow. Any tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle.

Contract towing service. The towing company performing police pulls for the city pursuant to

contract.

Disabled vehicle. A vehicle which is rendered unsafe to be driven as the result of some occurrence other than a wreck, including but not limited to, mechanical failures or breakdowns, fire, vandalism or a vehicle which is in a safe driving condition, but the owner is not present or able or permitted to drive so as to reasonably necessitate that the vehicle be removed by a tow truck.

Drop fee. The fee charged for a nonconsent tow which is disengaged pursuant to this article, while the towed vehicle is still on the premises from which it is being removed.

Hooked up. The vehicle is fully prepared for transport by attachment to a tow truck, lifted in tow position, with tow lights and safety chains attached and, if required, placed on a dolly in a raised position and the only thing remaining is for the tow operator to drive away.

Illegally or unauthorized parked vehicle. A vehicle parked, stored or situated in violation of any state law or city ordinance or without the effective consent of the owner of the premises where the vehicle is parked, stored or situated.

Junk vehicle. A vehicle as defined in V.T.C.A., Transportation Code ch. 683, as amended. Junk vehicle does not include the following:

(1) A vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(2) A vehicle or portion thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer; or

(3) An unlicensed, operable or inoperable antique and special interest vehicle stored by a collector on his property, provided that the vehicle and the outdoor storage area is maintained in such a manner that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery or other appropriate means.

Nonconsent tow. Any tow, which originates in the city, of a motor vehicle that is not a tow of a motor vehicle in which the tow truck is summoned by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term includes but is not limited to, a police pull, a tow of a motor vehicle in which the tow truck is summoned because of a traffic accident or to a traffic incident, and a private property tow.

Parking facility. Public or private property used, wholly or partly, for restricted or paid parking. The term includes:

(1) A restricted space on a portion of an otherwise unrestricted parking facility; and

(2) A commercial parking lot, parking garage, and a parking area serving or adjacent to a business, church, school, home that charges a fee for parking, apartment complex, property governed by a property owners' association, or government-owned property leased to a private person, including:

a. A portion of the right-of-way of a public roadway that is leased by a governmental entity to the parking facility owner; and

b. The area between the facility's property line abutting a county or municipal public roadway and the center line of the roadway's drainage way or curb of the roadway, whichever is further from the facility's property line.

Person. Includes an individual, firm, corporation, association, partnership, joint venture or society.

Police pull. A police-initiated nonconsent tow or other transportation of a vehicle by a tow truck which is the result of a police officer exercising his authority to effect the removal of the vehicle pursuant to state law and this article.

Private property tow. Any tow of a vehicle authorized by a parking facility owner without the consent of the owner or operator of the vehicle.

Street. The entire width between the boundary lines of every publicly maintained way when any part thereof is open to the use of the public for the purposes of vehicular travel.

Tow truck. A motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch, or otherwise move another motor vehicle. The term does not include:

(1) A motor vehicle owned and operated by a governmental entity, including a public school district;

(2) A motor vehicle towing:

a. A racecar;

b. A motor vehicle for exhibition; or

c. An antique motor vehicle.

(3) A recreational vehicle towing another vehicle;

(4) A motor vehicle used in combination with a tow bar, tow dolly, or other mechanical device if the vehicle is not operated in furtherance of a commercial enterprise;

(5) A motor vehicle that is controlled or operated by a farmer or rancher and used for towing a farm vehicle; or

(6) A motor vehicle that:

a. Is owned or operated by an entity the primary business of which is the rental of motor vehicles; and

b. Only tows vehicles rented by the entity.

Towing company. An individual, association, corporation, or other legal entity that controls, operates, or directs the operation of one or more tow trucks over a public roadway in this state but does not include a political subdivision of the state.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a street or roadway, except devices moved by human power or used exclusively upon stationary rails or tracks. The term includes as operable or inoperable automobile, truck, motorcycle, recreational vehicle or trailer.

Vehicle storage facility. A garage, parking lot, or other facility that is:

(1) Owned by a person other than a governmental entity;

(2) Used to store or park at least ten vehicles each year; and

(3) That is operated by a person who holds a license issued under V.T.C.A., Occupations Code ch. 2303 to operate the facility.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-83 Contract for police pulls

Police pulls for the city will be made pursuant to a contract between the city and a qualified towing service.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-84 Authority for police pulls

(a) A police officer for the city is hereby authorized to move a vehicle, require the operator or other person in charge of a vehicle to move the same, or have the vehicle removed by the city's contract towing service under this article to the nearest place of safety or to the premises of said contract towing service, under the following circumstance:

(1) When any vehicle is left unattended upon any bridge, viaduct or causeway, or in any tunnel where such vehicle constitutes an obstruction to traffic;

(2) When any vehicle is otherwise illegally parked so as to block the entrance to any private driveway;

(3) When any vehicle is found upon a street and a report has been previously made that the vehicle has been stolen, or there is reasonable grounds to believe the vehicle is stolen;

(4) When an officer has reasonable grounds to believe the vehicle has been abandoned;

(5) When a vehicle upon a street is wrecked or disabled and:

a. Because of the wreck or disability its normal operation is impossible or impractical; or

b. The person or persons in charge of the vehicle are incapacitated by reason of physical injury or other reason to such extent as to be unable to provide for its removal or custody or are not in the immediate vicinity of the wrecked or disabled vehicle.

(6) When an officer arrests a person driving or in control of a vehicle for an alleged offense and there is no other alternative to impoundment;

(7) Whenever an officer finds a vehicle standing upon a street, or public or private property in violation of any state law or city ordinance;

(8) When the owner or operator consents;

(9) When in the opinion of a police officer, said vehicle constitutes a hazard or interferes with a normal function of a governmental agency;

(10) When any vehicle is found to be a junk vehicle, in accordance with the city's junk vehicle ordinance, section [46-146] of this Code;

(11) When in the opinion of the a police officer, the safety of said vehicle is imperiled by reason of any catastrophe, emergency or unusual circumstances;

(12) When the operator of a motor vehicle is requested to show proof of financial responsibility on that vehicle and, in the opinion of a police officer, is unable to establish financial responsibility under V.T.C.A., Transportation Code § 601.051;

(13) Where otherwise authorized by law.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-85 Accident scene clean up

Each towing company called to the scene of an accident shall comply with state law and the state department of licensing and regulation regulations governing the removal of debris from the roadway.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-86 No tow truck at scene unless called by police

No person shall drive a tow truck to or near the scene of an accident within the city to directly or indirectly solicit towing services unless the person has been called to the scene by the owner of the vehicle or his authorized representative or by the police department.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-87 Solicitation of tow truck business prohibited

No person shall solicit any tow truck business in any manner, directly or indirectly, on the streets of the city at or near the scene of an accident or of a wrecked or disabled vehicle.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-88 City employees not to recommend tow truck

No employee of the city shall recommend to any person the name of any particular person engaged in the tow truck business for which solicitation is prohibited, nor shall any city employee influence or attempt to influence in any manner a decision of a person in choosing or selecting a tow truck operator.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-89 Pull sheets

The chief of police shall cause to be prepared a form to use for each police pull in the city made by the contract towing service.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-90 Procedures for determination of owner's rights

(a) When a vehicle is towed pursuant to a police pull, the owner of said vehicle shall be afforded the right to a hearing in the justice court in accordance with V.T.C.A., Occupations Code § 2308.452. This hearing shall be pursuant to the procedures outlined in V.T.C.A., Occupations Code ch. 2308.

(b) Unless a police hold is placed upon a vehicle towed pursuant to a police pull, it shall be the responsibility of the contract towing service to determine whether the vehicle should be released, when it should be released and to whom it should be released.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-91 Responsibilities of tow truck operator-Record keeping

(a) Any towing company or operator of a tow truck, not performing a tow pursuant to the city towing contract, who performs a nonconsent tow in the city shall keep written records on each vehicle it tows as a nonconsent tow. These records shall contain:

(1) The year, make, model, color, correct license plate number, state issuing the license, correct vehicle identification number of the vehicle, and the owner's or operator's name if reasonably available;

(2) The date, time and location from which the vehicle was towed, the name of the person who authorized the tow, and the specific reason for the tow;

(3) The name of the tow truck driver that towed the vehicle, and the licensing number of the truck along with the license plate number of the truck that towed the vehicle;

(4) All amounts charged for the towing of such vehicle, and the specific nature of each charge; and

(5) Photographs or videos of each vehicle before it is towed, demonstrating the condition of unauthorized parking, for example, but not limited to, a vehicle parked in a handicapped parking space without a permit, blocking a dumpster, blocking a vehicle in a parking space, blocking an entrance or exit, parking in a fire lane or other violation.

(b) The towing company operator, his agent or employee shall make these records available for inspection and copying by the chief of police or his designee upon his request, and the city shall have access, upon request, to any books, documents, papers and records for the purpose of making audit examinations during the operating hours of the tow truck operator.

(c) Required records shall be kept under care and custody of the towing company for at least two years from the date of the tow.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-92 Signage and posting

(a) Every parking facility owner who causes or authorizes a nonconsent tow must post a sign in accordance with state law. In addition to the requirements set forth in state law, each sign shall provide the name of the person or firm authorized to tow vehicles from the parking facility; and name and address of the vehicle storage facility the vehicle is removed to.

(b) Every parking facility owner who causes or authorizes a nonconsent tow must remove all signs upon the termination of the parking facility owner's interest in the parking facility or upon the expiration of the parking facility owner's nonconsent tow contract.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-93 Towing without specific authority prohibited

(a) Regardless of any general contractual or "patrol account" arrangement which may exist between a towing company and a parking facility owner, it is a violation of this article to make a nonconsent tow of any vehicle without first securing a specific, written directive to tow such vehicle signed by the owner of the parking facility or the owner's authorized representative that is not a tow truck service. Such directive must:

(1) Identify the vehicle to be towed by make, color, and license plate number.

(2) Identify the person signing the directive.

(3) State the location from which the vehicle is to be towed.

(4) State the date and time the directive is signed.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-94 State regulation and towing charges for nonconsent tows

(a) The owner or operator of a towing company commits an offense if he charges a fee in excess of the maximum fee for the applicable nonconsent tow fee set by state regulation.

(b) A towing company or vehicle storage facility operator may not charge any other fee for a nonconsent tow or service related to a nonconsent tow except a towing fee or a drop fee tow.

(c) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is subject to a nonconsent tow attempts to retrieve the motor vehicle before its removal from the property or parked location, the maximum amount that may be charged for a drop fee (if the motor vehicle is hooked up) is the maximum fee permitted by state regulation. Before its removal from the property the vehicle owner or operator has an absolute right to regain possession of the vehicle by payment of the drop fee. In the event the owner or operator arrives to move the vehicle before the vehicle is fully hooked up, no drop fee may be charged.

(d) The towing company and the vehicle storage facility must comply with state law and the state department of license and regulation regulations as they pertain to methods of payment. Notice of the methods of payment shall be given by the towing company to the owner or operator of the vehicle towed if the owner or operator is on sight at the time of the tow and by the vehicle storage facility when the owner appears to claim the towed vehicle.

(Ord. No. 1952, § 1, 3-27-12; Ord. No. 2043, § 1, 9-23-14)

Sec. 90-95 Notice of V.T.C.A., Occupations Code chapter 2308 hearings

(a) Upon initial contact with the owner or operator of a vehicle which is the subject of a nonconsent tow, a tow truck operator, a vehicle storage facility operator, or any employee or agent thereof shall give written notice to the vehicle owner or operator of his right to a hearing that meets the requirements of the V.T.C.A., Occupations Code.

(b) A person commits an offense if with criminal negligence he fails to provide notice as provided by this section.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-96 Maximum distance of nonconsent tows

Vehicles involved in a nonconsent tow must be transported directly to a vehicle storage facility. A parking facility cannot be used as a temporary vehicle storage facility. Nonconsent towed vehicles shall not be taken to a vehicle storage facility that is more than fifteen (15) miles outside the city.

(Ord. No. 1952, § 1, 3-27-12; Ord. No. 2043, § 2, 9-23-14)

Sec. 90-97 Culpable mental state

Any offense in this article which does not include a culpable mental state in its definition shall be deemed not to require one.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-98 Notice to vehicle owner or operator

Upon contact with the owner or operator of a vehicle which is the subject of a nonconsent tow, the towing company or a vehicle storage facility operator, or any employee or agent, shall give written notice to the vehicle owner or operator of the information required by this section. If there is no person-to-person contact, then this notice shall be mailed or faxed to the registered owner of the vehicle.

The intent of this section is that the owner or operator of a vehicle that is the subject of a nonconsent tow receive written information from the towing company or vehicle storage facility operator, in order to enhance the safety in a potentially volatile situation and allow safe, prompt, legal and orderly vehicle retrieval after a nonconsent tow without a breach of the peace by any party:

(1) The name, address and phone number of the towing company and the vehicle storage facility;

(2) The name and address of the property owner that authorized the tow;

(3) The methods of payment accepted by the towing company and vehicle storage facility;

(4) An address for citizens to file written complaints with the city;

(5) A copy or summary of this article.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-99 Violation; penalties

Any person who violates any provision of this article except section 90-94 shall be guilty of a misdemeanor upon conviction and may be punished by a fine not to exceed $500.00. Any person who violates section 90-94 of this article shall upon conviction be punished by a fine provided in V.T.C.A., Occupations Code § 2308.505.

Each act of violation and each day in which a violation is permitted to continue shall constitute a separate offense.

(Ord. No. 1952, § 1, 3-27-12)

Sec. 90-100 Other remedies

The city shall be entitled to pursue all other criminal and civil remedies to which it is entitled under any other law and the remedies provided herein are not exclusive.

(Ord. No. 1952, § 1, 3-27-12)

CHAPTERS 91 - 94
RESERVED*(92)

Endnotes

1 (Popup - Popup)

* **Charter reference–**Incorporation, art. I, § 1; form of government, art. I, § 2; administrative organization, art. V.

Cross reference–Administration of the animal chapter, § 10-36 et seq.; administration of the electrical standards and licensing requirements for electricians, § 14-136 et seq.; variance and appeal procedure for fences and other obstructions, § 14-326 et seq.; administration of the flood regulations, § 38-41 et seq.; administration of the regulations regarding parks, recreational and cultural facilities, § 54-31 et seq.; administration of the traffic and motor vehicle regulations, § 82-31 et seq.; administration and enforcement of the utilities regulations, § 86-111 et seq.

State law reference–Home rule, V.T.C.A., Local Government Code § 26.001 et seq.

2 (Popup - Popup)

* **Charter reference–**Planning and zoning commission, art. X, §§ 1, 2; personal interest in city contracts, art. XII, § 1; nepotism, art. XII, § 3; interest in franchises, art. XII, § 4; parks and leisure services board, art. XIII; library board, art. XIV.

Cross reference–Electrical board, § 14-136; tree board, § 54-46 et seq.

State law reference–Nepotism, Vernon's Ann. Civ. St. art. 5996a; code of ethics, Vernon's Ann. Civ. St. art. 6252-9d; public meetings, Vernon's Ann. Civ. St. art. 6252-17.

3 (Popup - Popup)

* **Charter reference–**Planning and zoning commission, art. X, § 1.

Cross reference–Buildings and building regulations, ch. 14; floods, ch. 38; streets and sidewalks, ch. 70; unified development code, ch. 84.

4 (Popup - Popup)

* **State law reference–**Airport zoning, V.T.C.A., Local Government Code § 241.001 et seq.

5 (Popup - Popup)

* **Editor's note–**Ord. No. 1256, § 1, adopted Oct. 14, 1997, repealed Div. 4, §§ 2-86-2-90, which pertained to the community advisory board. See the Code Comparative Table.

6 (Popup - Popup)

* **Charter reference–**Administrative organization, art. V; municipal court, art. VI; personal interest in city contracts, art. XII, § 1; nepotism, art. XII, § 3; interest in franchise, art. XII, § 4; garnishment, art. XII, § 8; bonds, art. XII, § 13.

Cross reference–Officer and employee liability plan, § 2-281 et seq.; animal control officer, § 10-36; electrical inspector, § 14-231; emergency management director, § 22-51; fire department, § 34-36 et seq.; fire marshal, § 34-66 et seq.; chief of the bureau of fire prevention, § 34-103; department of public libraries, § 54-136; personnel, ch. 58; civil service system, § 58-26 et seq.

7 (Popup - Popup)

* **Charter reference–**Municipal court, art. VI.

Cross reference–Criminal code, § 50-26 et seq.; traffic and motor vehicles, ch. 82.

State law reference–Municipal court, V.T.C.A., Government Code § 29.001 et seq.

8 (Popup - Popup)

* **Cross reference–**Officer and employee liability plan, § 2-281 et seq.; miscellaneous offenses, ch. 50; personnel, ch. 58; traffic and motor vehicles, ch. 82; authority of an obedience to police enforcement of the traffic chapter, § 82-31; vehicles for hire, ch. 90.

9 (Popup - Popup)

* **Charter reference–**Elections, art. III.

State law reference–Elections, V.T.C.A., Election Code § 1.001 et seq.

10 (Popup - Popup)

* **State law reference–**Write-in candidates, V.T.C.A., Election Code § 146.051 et seq.

11 (Popup - Popup)

* **Charter reference–**Notice of claim, art. XII, § 7.

State law reference–Tort claims, V.T.C.A., Civil Practice and Remedies Code § 101.001 et seq.

12 (Popup - Popup)

* **Charter reference–**Notice of claims, art. XII, § 7.

State law reference–Notice of tort claims, V.T.C.A., Civil Practice and Remedies Code § 101.101.

13 (Popup - Popup)

* **Cross reference–**Officers and employees, § 2-116 et seq.; law enforcement, § 2-156 et seq.

State law reference–Tort claims against officers and employees, V.T.C.A., Civil Practice and Remedies Code § 102.001 et seq.

14 (Popup - Popup)

* **Charter reference–**Public records of the city, art. XII, § 1.

Cross reference–Miscellaneous fees for copies of public records, § 30-38.

State law reference–Public records, V.T.C.A., Local Government Code § 201.001 et seq.

15 (Popup - Popup)

* **Cross reference–**Businesses, ch. 18; alcoholic beverages prohibited in parks and recreation areas unless special permission granted by the city council, § 54-113.

State law reference–Alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 1.01 et seq.

16 (Popup - Popup)

* **Cross reference–**Teasing or injuring animals in public parks or recreation areas prohibited, § 54-111.

State law reference–Animals, V.T.C.A., Health and Safety Code § 821.001 et seq.

17 (Popup - Popup)

* **Cross reference–**Administration, ch. 2.

18 (Popup - Popup)

* **State law reference–**Estrays, V.T.C.A., Agriculture Code § 142.001 et seq.

19 (Popup - Popup)

* **Cross reference–**Authority to destroy animals having rabies and vicious animals, § 10-4; health and sanitation, ch. 42.

State law reference–Rabies control, V.T.C.A., Health and Safety Code § 826.001 et seq.

20 (Popup - Popup)

* **State law reference–**Impoundment, V.T.C.A., Health and Safety Code § 826.033.

21 (Popup - Popup)

* **Editor's note–**Ord. No. 1644, § I, adopted Aug. 31, 2004, repealed Ch. 14, §§ 14-1-14-731, in its entirety and enacted a new Ch. 14, §§ 14-1-14-351, to read as set out herein. Former Ch. 14, §§ 14-1-14-731, pertained to similar subject matter. For a complete history of former Ch. 14, §§ 14-1-14-731, see the Code Comparative Table.

Charter reference–Bonds of contractors, art. XII, § 9; building permits, art. XII, § 11; dangerous structures, art. XII, § 10.

Cross reference–Planning and zoning commission, § 2-46 et seq.; fire prevention and protection, ch. 34; keeping dangerous premises prohibited, § 34-2; floods, ch. 38; smoking regulations, § 42-81 et seq.; nuisances, ch. 46; solid waste, ch. 66; placing certain material on streets

restricted, § 70-1; unified development code, ch. 84; utilities, ch. 86.

State law reference–Authority to establish building lines, V.T.C.A., Local Government Code § 213.001 et seq.; authority to establish fire limits, V.T.C.A., Local Government Code § 342.012.

22 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. I, §§ 14-1-14-12, and enacted a new Art. I as set out herein. The former Art. I pertained to building codes and derived from Ord. No. 1644, § I, adopted 8-31-04.

23 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. II, §§ 14-21-14-25, and enacted a new Art. II as set out herein. The former Art. II pertained to International Residential Code and derived from Ord. No. 1644, § I, 8-31-04; Ord. No. 1837, § 1, 12-9-08.

24 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. III, §§ 14-41-14-44, and enacted a new Art. III as set out herein. The former Art. III pertained to International Building Code and derived from Ord. No. 1644, § I, adopted 8-31-04.

25 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. IV, §§ 14-61-14-63, and enacted a new Art. IV as set out herein. The former Art. IV pertained to International Plumbing Code and derived from Ord. No. 1644, § I, 8-31-04; Ord. No. 1756, § I, 10-10-06; Ord. No. 1837, § 2, 12-9-08.

26 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. V, §§ 14-81-14-83, and enacted a new Art. V as set out herein. The former Art. V pertained to International Fuel Gas Code and derived from Ord. No. 1644, § I, adopted 8-31-04.

27 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. VI, §§ 14-100-14-102, and enacted a new Art. VI as set out herein. The former Art. VI pertained to International Mechanical Code and derived from Ord. No. 1644, § I, adopted 8-31-04.

28 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. VII, §§ 14-121-14-123, and enacted a new Art. VII as set out herein. The former Art. VII pertained to International Energy Conservation Code and derived from Ord. No. 1644, § I, adopted 8-31-04.

29 (Popup - Popup)

* **Editor's note–**Ord. No. 1942, § I, adopted Jan. 24, 2012, deleted the former Art. VIII, §§ 14-141-14-147, and enacted a new Art. VIII as set out herein. The former Art. VIII pertained to National Electrical Code and derived from Ord. No. 1644, § I, adopted 8-31-04.

30 (Popup - Popup)

* **Editor's note–**Ord. No. 1975, § I, adopted Nov. 13, 2012, repealed the former Art. X., Div. 1, §§ 14-181-14-184, Div. 2, §§ 14-191-14-196, Div. 3, §§ 14-197-14-204, Div. 4, §§ 14-221-14-224, Div. 5, § 14-241, Div. 6, Div. 7, §§ 14-261, 14-262, Div. 8, §§ 14-275-14-281, and enacted a new Art. X as set out herein. The former Art. X pertained to the minimum housing code and derived from Ord. No. 1943, § 2, 2-14-12; Ord. No. 1851, § 1, adopted 6-23-09.

31 (Popup - Popup)

* **Editor's note–**Ord. No. 1943, § 1, adopted Feb. 14, 2012, repealed the former Art. XII, §§ 14-331, 14-332, and enacted a new Art. XII as set out herein. The former Art. XII pertained to abatement of dangerous buildings and derived from Ord. No. 1644, § I, adopted 8-31-04.

32 (Popup - Popup)

* **Editor's note–**Ord. No. 1943, § 4, adopted Feb. 14, 2012, repealed the former Art. XIII, § 14-351, which pertained to secure substandard or dangerous structures and derived from Ord. No. 1644, § I, adopted 8-31-04.

33 (Popup - Popup)

* **Cross reference–**Alcoholic beverages, ch. 6; permit or license fee for alcoholic beverage, § 6-1; proximity of alcoholic beverage establishments to churches, schools, etc., restricted, § 6-5; slaughtering animals in the city prohibited, § 10-3; contractor's license required, § 14-176; master electrician's and journeymen electrician's license required, § 14-177; alarm systems, § 26-31 et seq.; emergency medical services, § 26-86 et seq.; fees, ch. 30; licensing of fire extinguishers sales and service, § 34-4; food and food service establishments, § 42-31 et seq.; retail food stores, § 42-56 et seq.; sanitation code for food stores, § 42-56; smoking regulations, § 42-81 et seq.; noise regulations, § 46-171 et seq.; permit required for sale of merchandise in public parks and recreation areas, § 54-94; contract required for concessions in public parks and recreation areas, § 54-112; secondhand goods, ch. 62; permit required for private collection of solid waste in the city, § 66-36; placing certain material on streets restricted, § 70-1; authorization required for extension of utility facilities in the public streets, § 70-2; barricade requirements for work performed in the public streets, sidewalks, rights-of-way, § 70-36 et seq.; occupational tax, § 78-76 et seq.; hotel occupancy tax, § 78-121 et seq.; display of advertising on vehicles restricted, § 82-6; parade permits required, § 82-34; restrictions on driving through funerals and other processions of vehicles, § 82-35; parking spaces required for the disabled, § 82-90; location of sexually oriented businesses restricted, § 84-183.

State law reference–Pawnbrokers, Vernon's Ann. Civ. St. art. 5069-51.01 et seq.; precious metals dealers, Vernon's Ann. Civ. St. art. 9009; crafted precious metals, Vernon's Ann. Civ. St. art. 9009a.

34 (Popup - Popup)

* **Editor's note–**Ord. No. 1949, §1, adopted Mar. 13, 2012, deleted the former Art. II, Div. 1, §§ 18-31-18-37, , Div. 2, §§ 18-51-18-54, and enacted a new Art. II as set out herein. The former Art. II pertained to itinerant vendors and derived from the Code of 1974, §§ 10-60-10-64, § 10-66, §§ 10-68-10-72.

35 (Popup - Popup)

* **Editor's note–**Ord. No. 1844, adopted Mar. 24, 2009, deleted the former Art. III, Div. 1, §§ 18-76, 18-77, Div. 2, §§ 18-101-18-109 and enacted a new Art. III as set out herein. The former Art. III pertained to licensing requirements for sexually oriented businesses and derived from Ord. No. 1133, § 4, 3-22-94.

36 (Popup - Popup)

* **State law reference–**Emergency management, V.T.C.A., Government Code § 418.001 et seq.

37 (Popup - Popup)

* **Editor's note–**Ord. No. 1863, § 2, adopted Sept. 8, 2009, repealed the former Art. II, Div. 1, §§ 26-31-26-41, Div. 2, §§ 26-61, 26-62 and enacted a new Art. II as set out herein. The former Art. II pertained to alarm systems and derived from Code 1974, § 21/4-1-13; Ord. No. 1210, §§ 1-3, 8-13-96; Ord. No. 1077, § III, 5-12-92.

Cross reference–Businesses, ch. 18.

State law reference–Burglar alarms, V.T.C.A., Local Government Code § 218.001 et seq.

38 (Popup - Popup)

* **Cross reference–**Businesses, ch. 18.

State law reference–Emergency medical services, V.T.C.A., Health and Safety Code § 773.001 et seq.

39 (Popup - Popup)

* **Cross reference–**Permit or license fee for alcoholic beverage, § 6-1; businesses, ch. 18; billing of city services, § 86-31.

40 (Popup - Popup)

* **Cross reference–**Buildings and building regulations, ch. 14; moving buildings, § 14-31 et seq.; electrical regulations, § 14-151 et seq.; smoking regulations, § 42-81 et seq.

41 (Popup - Popup)

* **Cross reference–**Officers and employees, § 2-116 et seq.

42 (Popup - Popup)

* **Cross reference–**Officers and employees, § 2-116 et seq.

43 (Popup - Popup)

* **Cross reference–**Traffic and motor vehicles, ch. 82.

44 (Popup - Popup)

* **Editor's note–**Ord. No. 1856, § 1, adopted Aug. 25, 2009, deleted the former Ch. 38, Art. I, §§ 38-1-38-9, Art. II, §§ 38-41-38-49, Art. III, §§ 38-71-38-75 and enacted a new Ch. 38 as set out herein. The former Ch. 38 pertained to floods and derived from Code 1974, §§ 4-170-4-178, §§ 4-190-4-198, §§ 4-210-4-214; Ord. No. 1077, § IX, 5-12-92; Ord. No. 1176, § I, 5-9-95; Ord. No. 1438, § I, 6-27-00.

Charter reference–Pools, ponds and lakes, art. XII, § 12.

Cross reference–Planning and zoning commission, § 2-46 et seq.; buildings and building regulations, ch. 14.

45 (Popup - Popup)

* **Cross reference–**Administration, ch. 2.

46 (Popup - Popup)

* **Editor's note–**Ord. No. 1852, § 1, adopted June 23, 2009, deleted the former Ch. 40, Art. I, §§ 40-1-40-5, Art. II, §§ 40-21-40-27, Art. III, § 40-41, Art. IV, §§ 40-51-40-55, Art. VI, §§ 40-61, 40-62 and enacted a new Ch. 40 as set out herein. The former Ch. 40 pertained to gas drilling and production and derived from Ord. No. 1679, § 1, 3-8-05.

47 (Popup - Popup)

* **Editor's note–**Ord. No. 1524, adopted Mar. 26, 2002, repealed in their entirety §§ 42-1-42-80, and enacted new §§ 42-1-42-80 as set out herein. Said former sections pertained to similar subject matter and derived from Code 1974, §§ 8-48, 8-85-8-91, 8-100-8-102; Ord. No. 1077, §§ XV, XVI, 5-12-92; Ord. No. 1168, § I, 1-10-95; Ord. No. 1330, §§ I-IV, 6-23-98; Ord. No. 1358, §§ I, II, 9-14-99; and Ord. No. 1433, §1, 8-8-00. At the discretion of the editor portions of said new provisions have been renumbered to better fit the format of the Code.

Cross reference–Slaughtering animals in the city prohibited, § 10-3; rabies control, § 10-131 et seq.; sanitary requirements for massage establishments, § 18-80.

State law reference–Power and authority, V.T.C.A., Health and Safety Code § 121.003; health authority, V.T.C.A., Health and Safety Code § 121.021; local health department, V.T.C.A., Health and Safety Code § 121.031; air quality, V.T.C.A., Health and Safety Code § 382.001 et seq.; municipal authority regarding air quality, V.T.C.A., Health and Safety Code § 382.111 et seq.

48 (Popup - Popup)

* **Cross reference–**Buildings and building regulations, ch. 14; businesses, ch. 18; fire prevention and protection, ch. 34; nuisances, ch. 46.

49 (Popup - Popup)

* **Cross reference–**Buildings and building regulations, ch. 14; keeping dangerous premises prohibited, § 34-2; smoking regulations, § 42-81 et seq.; streets and sidewalks, ch. 70; placing certain material on streets restricted, § 70-1; display of advertising on vehicles restricted, § 82-6; parade permits required, § 82-34; unified development code, ch. 84.

State law reference–Nuisances, V.T.C.A., Health and Safety Code §§ 341.001-344.007 and §§ 365.001

et seq.; solid waste disposal act, V.T.C.A., Health and Safety Code § 361.001 et seq.; accumulations declared nuisances, V.T.C.A., Health and Safety Code § 341.011; abatement by health officer, V.T.C.A., Health and Safety Code § 341.012; abatement by city, V.T.C.A., Health and Safety Code § 342.001 et seq.

50 (Popup - Popup)

* **State law reference–**Weeds, V.T.C.A., Health and Safety Code § 342.001 et seq.

51 (Popup - Popup)

* **Cross reference–**Depositing or throwing glass, etc., on streets and sidewalks restricted, § 82-4.

State law reference–Automobiles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01 et seq.; litter, V.T.C.A., Health and Safety Code §§ 341.013, 365.001 et seq.

52 (Popup - Popup)

* **State law reference–**Property used as evidence, Vernon's Ann. C.C.P. arts. 18.17, 45.06; abandoned vessels, V.T.C.A., Parks and Wildlife Code § 31.037.

53 (Popup - Popup)

* **Cross reference–**Traffic and motor vehicles, ch. 82.

State law reference–Abandoned motor vehicles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01 et seq.

54 (Popup - Popup)

* **Cross reference–**Traffic and motor vehicles, ch. 82.

55 (Popup - Popup)

* **Cross reference–**Barking dogs, § 10-66; businesses, ch. 18; unified development code, ch. 84.

State law reference–Creating noise as disorderly conduct, V.T.C.A., Penal Code § 42.01.

56 (Popup - Popup)

* **Cross reference–**Law enforcement, § 2-156 et seq.; arson rewards, § 34-1; theft of city services prohibited, § 86-28.

57 (Popup - Popup)

* **Cross reference–**Municipal court, § 2-136 et seq.

58 (Popup - Popup)

* **Charter reference–**Parks and leisure services board, art. XIII.

Cross reference–Advisory board for social concerns, § 2-86 et seq.; reward for conviction of persons damaging public property, § 50-1; use of roller coasters, skates, and similar devices restricted on public streets and sidewalks, § 82-2; parade permits required, § 82-34; unified development code, ch. 84.

59 (Popup - Popup)

* **Cross reference–**Administration, ch. 2.

60 (Popup - Popup)

* **Cross reference–**Boards, committees and commissions, § 2-31 et seq.

61 (Popup - Popup)

* **Charter reference–**Library board, art. XIV.

Cross reference–Advisory board for social concerns, § 2-86 et seq.

62 (Popup - Popup)

* **Editor's note–**Ord. No. 1909, §§ 1, 2, adopted Apr. 26, 2011 did not specify manner of inclusion. Hence, to facilitate indexing, said provisions have been codified as Ch. 54, Art. V.

63 (Popup - Popup)

* **Cross reference–**Officers and employees, § 2-116 et seq.; law enforcement, § 2-156 et seq.

64 (Popup - Popup)

* **Editor's note–**Ord. No. 1995, § 1, adopted May 28, 2013, amended in its entirety the former Art. II, §§ 58-26-58-36, and enacted a new Art. II as set out herein. The former Art. II pertained to the civil service system and derived from the Code of 1974, §§ 2-51-2-61; Ord. No. 1083, §§ 1-11, 8-25-92; and Ord. No. 1077, adopted § II, 5-12-92.

65 (Popup - Popup)

* **Cross reference–**Businesses, ch. 18.

66 (Popup - Popup)

* **Editor's note–**Ord. No. 1972, § 1, adopted Sept. 25, 2012, deleted the former Ch. 66, Art. I, § 66-1, Art. II, §§ 66-11-66-13, Art. III, §§ 66-31-66-35, and enacted a new Ch. 66 as set out herein. The former Ch. 66 pertained to solid waste and derived from Ord. No. 1571, §§ 1-3, 1-14-03; Ord. No. 1635, § 1, 3-23-04; Ord. No. 1786, §§ 1-3, 11-13-07; Ord. No. 1790, §§ 1-3, § 12.1.B, § 15, 11-13-07; Ord. No. 1866, § 1, 1-12-10.

Cross reference–Buildings and building regulations, ch. 14; utilities, ch. 86.

67 (Popup - Popup)

* **Cross reference–**Planning and zoning commission, § 2-46 et seq.; proximity of alcoholic beverage establishments to churches, schools, etc., restricted, § 6-5; riding or driving livestock on streets and sidewalks prohibited, § 10-105; moving buildings, § 14-31 et seq.; fences and obstructions, § 14-286 et seq.; fence not to encroach over streets or sidewalks, § 14-358; nuisances, ch. 46; reward for conviction of persons damaging public property, § 50-1; tree board responsible for the planting, pruning and removal of all trees located within the street right-of-way, easement, alleys and parks, § 54-4; certain tree species to be planted in public streets, § 54-51; trees planted in streets prohibited from obstructing or interfering with utilities, § 54-55; use of roller coasters, skates, and similar devices restricted on public streets and sidewalks, § 82-2; depositing or throwing glass, etc., on streets and sidewalks restricted, § 82-4; parade permits required, § 82-34; restrictions on driving through funerals and other processions of vehicles, § 82-35; speed limits on certain streets and sidewalks, § 82-61; speed limits for specific streets in the city, § 82-62; driving or parking on sidewalk prohibited, § 82-65; parking spaces required for the disabled, § 82-90; unified development code, ch. 84; utilities, ch. 86; drainage requirements, § 86-161 et seq.

68 (Popup - Popup)

* **Cross reference–**Businesses, ch. 18; utilities, ch. 86.

69 (Popup - Popup)

* **Editor's note–**Ord. No. 1133, § 1, adopted Mar. 22, 1994, repealed former ch. 74, which pertained to subdivisions. For a detailed analysis of this ordinance, see the Code Comparative Table.

70 (Popup - Popup)

* **Charter reference–**Taxation, art. IX.

Cross reference–Permit or license fee for alcoholic beverage, § 6-1.

State law reference–Authority to levy one-half of state occupation tax, Const. art. 8, § 1; state occupation taxes, V.T.C.A., Tax Code § 191.001 et seq.; general licensing authority, V.T.C.A., Local Government Code § 215.001 et seq.; authority to levy gross receipts permit fee on vehicles for hire, Vernon's Ann. Civ. St. art. 6698; tax on coin-operated machines, Vernon's Ann. Civ. St. art. 8814; state license for detectives, Vernon's Ann. Civ. St. art. 4413(29bb).

71 (Popup - Popup)

* **Charter reference–**Tax lien and liability, art. IX, § 2.

72 (Popup - Popup)

* **Charter reference–**Power of taxation, art. IX, § 1.

Cross reference–Businesses, ch. 18.

73 (Popup - Popup)

* **Cross reference–**Coin-operated machine tax amount, § 30-21.

State law reference–Occupation tax on coin-operated machines, Vernon's Ann. Civ. St. art. 8814.

74 (Popup - Popup)

* **Charter reference–**Power of taxation, art. IX, § 1.

Cross reference–Businesses, ch. 18.

State law reference–Hotel occupancy tax, V.T.C.A., Tax Code § 351.001 et seq.

75 (Popup - Popup)

* **Charter reference–**Power of taxation, art. IX, § 1.

State law reference–Bingo, Vernon's Ann. Civ. St. art. 179d.

76 (Popup - Popup)

* **Charter reference–**Power of taxation, art. IX, § 1.

Cross reference–Utilities, ch. 86.

State law reference–Telecommunications services, V.T.C.A., Tax Code §§ 301.004, 321.210.

77 (Popup - Popup)

* **Editor's note–**Ord. No. 1865, § 1, adopted Jan. 12, 2010, repealed Art. VII, §§ 78-201-78-212, which pertained to guidelines for tax abatement in reinvestment zones and derived from Ord. No. 1344, §§ 1-12, 11-10-98.

78 (Popup - Popup)

* **Cross reference–**Municipal court, § 2-136 et seq.; law enforcement, § 2-156 et seq.; fire lanes, § 34-131; abandoned motor vehicles, § 46-111; junked motor vehicles, § 46-136 et seq.; parking of vehicles in parks and recreation areas restricted, § 54-106; vehicles for hire, ch. 90.

State law reference–Uniform traffic-control law, Vernon's Ann. Civ. St. art. 6701d.

79 (Popup - Popup)

* **Cross reference–**Administration, ch. 2.

80 (Popup - Popup)

* **Cross reference–**Parking of vehicles in parks and recreation areas restricted, § 54-106.

81 (Popup - Popup)

* **Cross reference–**Commercial motor vehicle permit fees, § 30-47.

82 (Popup - Popup)

* **Editor's note–**Included herein as ch. 84 is Ord. No. 1133, §§ 1-3, adopted March 22, 1994, excluding appendices A, B and C, which are on file and available for inspection in the offices of the city. The unified development code is set out herein as substantially enacted. Where necessary for clarity, the editor has added wording set out in brackets. Obvious misspellings have been corrected. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Amendments are worked into their places and are marked by history notes at the end of any affected section. By using the Code Comparative Table, it is possible to trace amendments to particular subsections.

83 (Popup - Popup)

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial			
		R-1	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX	LI	I-1	I-2	

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-	R-1	R-1	R-	R-	R-	R-	M	C-	C-	TX 10	LI	I-	I-
	Agricultural Activities															
10**	Metal mining	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
12**	Coal mining	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
13**	Oil and gas extraction	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
14**	Mining/quarrying others	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
0191	General farming	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
0291	Livestock raising	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
0181	Plant nurseries											S		S	S	S
0742	Veterinary services											P	P	P	P	P
0752	Kennels and pounds (indoors only)											S	S	P	P	P
0752	Kennels and pounds (with outside runs)												S	S	S	S
0781	Landscape designers										P	P	P	P	P	P
0782	Lawn and garden services											P	P	P	P	P
	Residential Accommoda															

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	dwellings (attached)															
0000	Single-family dwellings (townhouse)						P	P	P							
0000	Multifamily dwellings (duplex)					P	P	S	S							
0000	Multifamily dwellings (apartment)						S	S	S							
0000	Senior citizens assisted living					S	S	S	S							
0000	Senior housing -Apartments						S	S	S							
0000	Manufactured or mobile homes (subdivision)									P						
0000	Manufactured or mobile homes (rental parks)									S						
0000	Home occupations	P	P	P	P	P	P	P	P	P						
0000	Private	S	S	S	S	S	S	S	S	S						

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	Residential accessory uses		P	P	P	P	P	P	P	P						
7011	Hotels and motels											S	S	S	S	S
7021	Rooming and boarding houses (reference section 84-7(b)" Definitions"						S	S	S							
7021	Group residential						S	S	S							
7033	Camps and trailer parks									S		S	S	S	S	S
7041	Membership hotels and lodging facilities											P	P	P	S	S
	Institutional and Education Facilities															
8059	Nursing and personal care facilities						S	S	S		S	S	S	S	S	S
8062	Hospitals						S	S	S		S	P	P	P	P	P
8351	Elementary schools (public or	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	y or senior high schools (public or private)															
8221	Colleges or universities (public or private)	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P
8231	Libraries and information centers	S	S	S	S	S	P	P	P	P	P	P	P	P	P	P
8241	Vocational and correspo-dence schools											S	S	S	S	S
8299	Other schools and educational services											S	S	S	S	S
****	Accessory residential with educational facilities										S	S	S	S	S	S
83**	Social services (other than below)										S	P	P	P	P	P
8351	Day care and						S	S	S	S	P	P	P	P	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	(5 or less children)															
8361	Alcoholic, drug or psychiatric care centers											S	S	S	S	S
8361	Integral facilities						S	S	S							
8361	Residential care facility						S	S	S							
8399	Parolee-probation home											S	S	S	S	S
84**	Museums, galleries, zoos and botanical gardens											S	S	S	S	S
86**	Nonprofit private membership organizations											S	S	S	S	S
8661	Churches and other places of worship	P	P	P	P	P	P	P	P			S	S	S	S	S
****	Federal, state and local government uses	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
6553	Cemeteries and mausoleums	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
7261	Funeral											S	S	S	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	Facilities															
48**	Antennas of any height	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
48**	Telecommunication facilities (unmanned)	S	S	S	S	S	S	S	S	S	P	P	P	P	P	P
483*	Telecommunication facilities and broadcast stations (manned)												P	P	P	P
4899	Satellite reception dishes (< 10 feet diameter)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
4899	Satellite reception dishes (> 10 feet diameter)							P	P		P	P	P	P	P	P
4899	Radar stations	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P
4911	Electrical substations	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
4911	Electrical generating plants													S	S	S
4939	Utility transmission facilities (high voltage, petroleu	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	Wastewater treatment and disposal facilities													S	S	S
4952	Water purification facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
4952	Wastewater pumping facilities	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
4953	Solid waste landfill, incineration															S
4953	Public utility supply and storage yards	S	S	S	S	S	S	S	S	S	S	S	S	S	P	P
****	Recycling collections centers											S	S	S	P	P
	Office Uses															
60**	Banks										P	P	P	P	P	P
60**	Drive-in/thru banks or credit agencies											P	P	P	P	P
61**	Credit agencies other than banks											P	P	P	P	P
6099 or 614*	Nondepository financial													S	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	y brokers															
64**	Insurance agencies										P	P	P	P	P	P
65**	Real estate agencies										P	P	P	P	P	P
80**	Health-related professional services										P	P	P	P	P	P
807*	Medical and dental laboratories										P	P	P	P	P	P
808*	Outpatient care facilities										P	P	P	P	P	P
81**	Legally-related professional services										P	P	P	P	P	P
871*	Design-related professional services										P	P	P	P	P	P
872*	Financially-related professional services										P	P	P	P	P	P
	Retail Trade															
5211	Lumber, building material (indoor only)											P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	wallpaper stores															
5251	Hardware stores (under 5,000 SF gsf)										P	P	P	P	P	P
5251	Hardware stores (over 5,000 SF gsf)											P	P	P	P	P
5261	Paint sales, lawn and garden supply stores											P	P	P	P	P
53**	General merchandise stores											P	P	P	P	P
54**	Food stores (over 5,000 sf gfa)										S	P	P	P	P	P
54**	Food stores (under 5,000 sf gfa)										P	P	P	P	P	P
5511	Motor vehicle dealers (new and used)											S		S	S	S
5531	Auto and home supply stores											P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	storage)															
5541	Gasoline sales										S	P	P	P	P	P
5551	Boat dealers											S		S	S	S
5561	Recreational and utility trailer sales/rental											S		S	S	S
5571	Motorcycle dealers											S		S	S	S
56**	Apparel and accessories (< 5,000 sf gfa)										P	P	P	P	P	P
56**	Apparel and accessories (> 5,000 sf gfa)										S	P	P	P	P	P
57**	Furniture and home furnishings stores											P	P	P	P	P
5812	Food caterers											P	P	P	P	P
5812	Eating establishments (drive-thru)										S	P	P	P	P	P
5812	Eating establishments										P	P	P	P	P	P
5813	Drinking											S	S	S	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	below)															
5912	Proprietary stores dealing in certain novelty items															S
5932	Pawn shops														P	P
5932	Used merchandise											S	S	S	P	P
5941	Sporting goods and bicycle shops										S	P	P	P	P	P
5942	Book stores (general)										P	P	P	P	P	P
5942	Book stores (adult)															S
5943	Stationery stores										P	P	P	P	P	P
5944	Jewelry stores										P	P	P	P	P	P
5945	Hobby, toy and game shops (< 5,000 sf gfa)										P	P	P	P	P	P
5945	Hobby, toy and game shops (> 5,000 sf gfa)										S	P	P	P	P	P
5946	Camera										P	P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
5948	Luggage and leather goods stores											P	P	P	P	P
5949	Sewing, needlework and piece goods										P	P	P	P	P	P
596*	Nonstore retailers											P	P	P	P	P
598*	Fuel dealers, bulk												S	P	P	P
5992	Florists										P	P	P	P	P	P
5993	Cigar stores													S	S	S
5993	Tobacco products store as defined in section 84-7.													S	S	S
5994	News dealers										P	P	P	P	P	P
5995	Optical goods stores											P	P	P	P	P
5999	Misc. retail stores (other than below)										S	P	P	P	P	P
5999	Misc. retail stores (adult or sexually															S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	companies															
414*	Bus service (private/ charter)											S	S	P	P	P
472*	Travel agents										P	P	P	P	P	P
7211	Power laundries											P	P	P	P	P
7212	Garment pressing and laundry/dry cleaning agents										P	P	P	P	P	P
7213	Linen supply											P	P	P	P	P
7215	Coin-operated laundries and cleaners											P	P	P	P	P
7216	Dry cleaning plants											S	P	P	P	P
7217	Carpet and upholstery cleaning											P	P	P	P	P
7218	Industrial laundering												P	P	P	P
7219	Diaper service											P	P	P	P	P
7221	Photographic and portrait										P	P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	nt Makeup Cosmetic Studio															
7241	Barber shops										P	P	P	P	P	P
7251	Shoe repair and shine shops										P	P	P	P	P	P
7299	Miscella-neous personal services (other than below)										P	P	P	P	P	P
7299	Modeling, photo studios, escort services and other adult or sexually oriented businesses or services															S
7299	Tattoo and/or Body Modification Studio													S	S	S
	Business Services															
****	Phone banks											S	S	S	S	S
7311	Advertising agencies										P	P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	collection agencies															
733*	Reproduction and stenographic services											P	P	P	P	P
734*	Services to dwellings and other buildings (with outside sales)											S	S	S	P	P
734*	Services to dwellings and other buildings (no outside sales, storage or display)											P	P	P	P	P
735*	Misc. equipment rental and leasing											S	S	P	P	P
7353	Equipment rental and leasing services												S	S	P	P
736*	Personnel supply services											P	P	P	P	P
737*	Computer and data											P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	services															
7383	News syndicates											P	P	P	P	P
7384	Photo finishing laboratories											P	P	P	P	P
7389	Trading stamp services										P	P	P	P	P	P
7389	Miscellaneous business services											P	P	P	P	P
7389	Business services, not elsewhere classified											S	S	S	S	S
87**	Management, engineering, accounting, consulting and public relations											P	P	P	P	P
8734	Commercial testing laboratories											P	P	P	P	P
	Automotive Services															
7513	Truck rental and leasing,											S		S	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	(with on-site vehicle or storage)															
7521	Parking structures (commercial)											S	S	P	P	P
7532	Top and interior repair											S	S	P	P	P
7532	Body repair											S	S	P	P	P
7534	Tire retreading											S	S	P	P	P
7534	Tire repair											S	S	P	P	P
7535	Paint shops											S	S	P	P	P
7538	General repair											S	S	P	P	P
7542	Carwashes											S	S	P	P	P
	Misc. Repair Services															
762*	Electrical repair shops											P	S	P	P	P
7631	Watch, clock and jewelry repair											P	P	P	P	P
7641	Re-upholstering and furniture repair											P	P	P	P	P
7692	Welding repair												S	P	P	P
7694	Armature												S	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	classified															
	Amusement and Recreational Services															
781*	Motion-picture production											P	P	P	P	P
782*	Motion-picture distribution											P	P	P	P	P
7841	Video rental										P	P	P	P	P	P
7832	Motion-picture theaters (general)											S	S	S	S	S
7833	Motion-picture theaters (drive-in)											S	S	S	S	S
7832	Motion-picture theaters (adult)															S
791*	Dance halls, studios and schools											S	S	S	S	S
792*	Theatrical producers, bands and entertainers (agent)											P	P	P	P	P
793*	Bowling centers											S	S	S	S	S
7999	Pool halls											S	S	S	S	S

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	tracks															
7992	Golf courses	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
7992	Golf driving range											S	S	S	S	S
7992	Miniature golf centers											S	S	S	S	S
7993	Coin-operated amusement devices and arcades											S	S	S	S	S
7996	Amusement parks											S	S	S	S	S
7997	Membership sports and recreation clubs										S	P	P	P	P	P
7999	Amusement services, not elsewhere classified											S	S	S	S	S
7999	Swimming pools (private)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Trucking/Warehousing and Wholesale Trade															
421*	Trucking services												S	P	P	P
4215	Courier services											P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	facility															
4731	Freight/cargo agents											P	P	P	P	P
50**	Durable goods (excluding 5052 and 5093) (indoors only)												P	P	P	P
50**	Durable goods (excluding 5052 and 5093) (with outdoors storage)														S	S
51**	Nondurable goods (excluding 515*, 516* and 517*)												P	P	P	P
	Manu-facturing Activities															
202*	Dairy products														P	P
203*	Fruit and vegetable products														P	P
2041	Blended and prepared flour														P	P
205*	Bakery products														P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	soft drinks															
2087	Flavoring extracts and syrups															P
209*	Misc. food preparation															P
21**	Tobacco products															P
22**	Textile products															P
23**	Apparel and other finished fabric products															P
24**	Lumber and wood products															P
25**	Furniture and fixtures															P
26**	Paper and allied products															P
27**	Printing, publishing and allied industries														P	P
28**	Chemical and allied products															P
31**	Leather and leather products															P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
34**	Fabricated metal products															P
35**	Machinery, except electrical															P
36**	Electrical and electronic supplies														P	P
37**	Transportation equipment															P
38**	Precision instruments														P	P
39**	Misc. manufacturing industries														S	P
	Trans-portion Facilities															
40**	Rail transportation														S	S
41**	Transit and highway passenger facilities												S	S	P	P
42**	Transportation and warehousing														P	P
422*	Self storage facility												S	S	P	P
43**	U.S. Postal											P	P	P	P	P

Table 4-A. Permitted Primary Uses																
SIC Code	Primary Use	Residential									Commercial			Industrial		
		R-1C	R-1	R-1L	R-1A	R-2	R-3	R-4	R-5	MH	C-1	C-2	TX10	LI	I-1	I-2
	services															
480*	Communi-cation														P	P
490*	Electric, gas and sanitary service															P

Empty = Not a permitted use

P = Permitted use

S = Permitted use with a specific use permit

84 (Popup - Popup)

* **Editor's note–**Ord. No. 1861, § 1, adopted Aug. 25, 2009, deleted the former Art. VI, Div. 1, §§ 84-230-84-239, Div. 2, §§ 84-260-84-265, Div. 3, §§ 84-280-84-282, Div. 4, §§ 84-300-84-302, and enacted a new Art. VI as set out herein. The former Art. VI pertained to signs and street graphics regulations and derived from Ord. No. 1667, § I, 11-23-04.

85 (Popup - Popup)

* **Charter reference–**Authority, art. XI.

Cross reference–Buildings and building regulations, ch. 14; plumbing standards, § 14-266; reward for conviction of persons damaging public property, § 50-1; trees planted in streets prohibited from obstructing or interfering with utilities, § 54-55; solid waste, ch. 66; streets and sidewalks, ch. 70; authorization required for extension of utility facilities in the public streets, § 70-2; barricade requirements for work performed in the public streets, sidewalks, rights-of-way, § 70-36 et seq.; telecommunications tax, § 78-181 et seq.

86 (Popup - Popup)

* **State law reference–**Restrictions on discontinuance of service, V.T.C.A., Local Government Code § 402.002.

87 (Popup - Popup)

* **Editor's note–**Ord. No. 1574, adopted Feb. 11, 2003, amended Art. III in its entirety to read as herein set out. Former §§ 86-96 through 86-137, pertained to wastewater collection and treatment. For a complete history of former §§ 86-96 through 86-137 see the Code Comparative Table.

88 (Popup - Popup)

* **Cross reference–**Streets and sidewalks, ch. 70.

State law reference–Drainage systems, V.T.C.A., Local Government Code § 402.041 et seq.

89 (Popup - Popup)

* **Cross reference–**Law enforcement, § 2-156 et seq.; fee for annual certificate of convenience and necessity for taxicabs and other public vehicles, § 30-31; fees for wreckers and tow trucks, § 30-32; traffic

92 (Popup - Popup)

* **Editor's note–**Ord. No. 1133, § 1, adopted Mar. 22, 1994, repealed former ch. 94, which pertained to zoning. For a detailed analysis of this ordinance, see the Code Comparative Table.