

**ORDINANCE NO. 2046-19**

**AN ORDINANCE OF THE CITY OF PLUM GROVE, TEXAS, ADOPTING A BUILDING CODE; PROVIDING FOR A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING AN EFFECTIVE DATE.**

\* \* \* \* \*

**WHEREAS**, the City Council of the City of Plum Grove, Texas, ("City") desires to adopt regulations for the health, safety, and general welfare of the City; and

**WHEREAS**, to achieve that end, the City Council finds that adopting the building code attached hereto as **Exhibit A** (the "Code") promotes regulations for the health, safety, and general welfare of the City;

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PLUM GROVE, TEXAS:**

**Section 1.** That the facts found in the preamble of this Ordinance are true and correct and incorporated herein for all purposes.

**Section 2.** The City of Plum Grove, Texas, hereby adopts the Code.

**Section 3.** A copy of the Code shall be maintained by the City. If a provision of said Code is found to be in conflict with a provision of any zoning, building, fire, safety, or health ordinance or any regulation adopted pursuant thereto or any other ordinance or code or regulation of the City, the provision which establishes the higher standard for the promotion of health and safety shall control.

**Section 4. Penalty.** Any person who violates or causes, allows, or permits another to violate any provision of this ordinance, rule, or police regulation of the city shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine or penalty not to exceed five hundred dollars (\$500.00). If such rule, ordinance, or police regulation governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, the fine or penalty shall not exceed two thousand dollars (\$2,000.00). If such rule, ordinance, or police regulation governs the dumping of refuse, the fine or penalty shall not exceed four thousand dollars (\$4,000.00). Each occurrence of any violation of this ordinance, rule, or police regulation shall constitute a separate offense. Each day on which any such violation of this ordinance, rule, or police regulation occurs shall constitute a separate offense.

**Section 5. Severability.** In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall

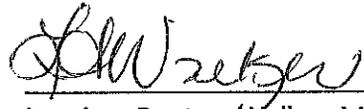


not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and the City Council of the City of Plum Grove, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

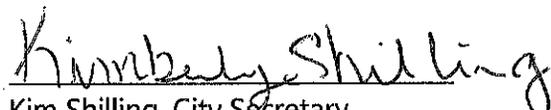
**Section 6.** *Repeal.* All ordinances or parts thereof in conflict with this Ordinance are repealed to the extent of such conflict.

**Section 7.** *Effective date.* This Ordinance shall become effective when published as required by law.

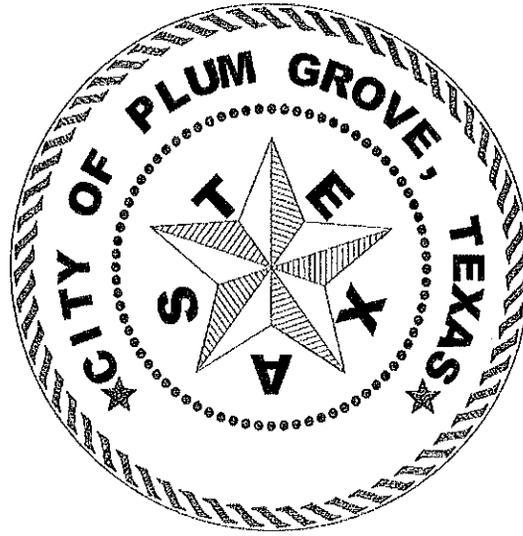
**PASSED, APPROVED, and ADOPTED** this the 13<sup>th</sup> day of May, 2019.

  
\_\_\_\_\_  
Lee Ann Penton-Walker, Mayor

**ATTEST:**

  
\_\_\_\_\_  
Kim Shilling, City Secretary





# **City of Plum Grove**

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Adopted \_\_\_\_\_



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# CHAPTER 1

## BUILDING & CONSTRUCTION

### ARTICLE 1.100 STANDARD CODES

#### Sec. 1.101 Codes Adopted

- (a) Pursuant to the authority of the city as a Type A general-law municipality, the city hereby elects to regulate certain areas of activity covered by the codes hereinafter described. Such codes are found to relate to the public safety, health and general welfare.
- (b) The following International Code Council, Inc. Codes, current editions with amendments as published are hereby adopted by the city:
- (1) International Building Code, 2012 edition.
  - (2) International Residential Code, One- and Two-Family Dwelling, 2012 edition.
  - (3) International Mechanical Code, 2012 edition.
  - (4) International Plumbing Code, 2012 edition.
  - (5) International Electrical Code, 2012 edition.
  - (6) International Fire Code, 2012 edition.
  - (7) International Fuel Gas Code, 2012 edition.
  - (8) International Private Sewage Disposal Code, 2012 edition.
  - (9) International Energy Conservation Code, 2012 edition.
  - (10) International Property Maintenance Code, 2012 edition.
  - (11) NEC National Electrical Code, 2014 edition.
- Adopted codes in their most recent editions and includes a provision to automatically accept the latest editions as they are published.
- (c) Such codes are incorporated herein by reference, except as may be otherwise provided by this article.

**Sec. 1.102 Enforcement Official**

When reference is made in any adopted code with respect to the duties of a certain official named therein, those duties shall be the responsibility of the building inspector or his designee. In the absence of a building inspector, the Mayor shall designate a responsible party for conducting inspections and carrying out other duties in so far as enforcing the provisions of each such code.

**ARTICLE 1.200 PERMIT FEES**

**Sec. 1.201 Purpose**

The permit fees enumerated in the following sections are established to recover the costs related to the enforcement and administration of the various codes regulating building, electrical, mechanical and plumbing improvements and construction with the city.

The permit fees provided for in this section shall be paid to the City before the issuance of a permit and before any work is started. All such fees shall be delivered, as required, to the office of the building inspector. Permit fees shall be as provided for in the Fee Schedule found in the Appendix of this Code

**ARTICLE 1.300 BUILDING MOVING**

Before any house, building or other structure heretofore or to be hereafter attached to any land can be moved by any person, firm or corporation, through the City of Plum Grove, a permit must be first secured from the City. Upon application for permit being filed, a deposit must be submitted to the City as security for any damages which may occur to the city by reason of the said moving. Should there not be damage by reason of said house, building or other structure being moved within said city, said deposit shall be refunded to the person, firm or corporation making said application, but should damage occur to any city property by reason of said moving, then the mayor, or the mayor's designee, shall make a reasonable estimate of the damages, if any, and the City shall deduct same from said deposit and in the event the damage so done, if any, exceeds the deposit so made, then the applicant therefor shall immediately remit the balance to the City Treasurer.

**ARTICLE 1.400 ELECTRICAL CODE**

**Sec. 1.401 Code Adopted**

- (a) The purpose of this article is to adopt an electrical code for the City of Plum Grove by amending prior ordinances concerning electrical codes.
- (b) The National Electrical Code together with the International Code, shall together constitute the electrical code of the City of Plum Grove. In the event of a conflict between the provisions of the National Electrical Code and the International Electrical Code, the provisions of the International Code shall prevail.

**Sec. 1.402     Violations**

It shall be unlawful for any person, firm, partnership, corporation or other entity, however constituted, to violate any provision of this article (which includes any provision of the Plum Grove Electrical Code or any provision of the National Electrical Code, 2014 Edition), and upon conviction for any such violation, such person, corporation or other entity shall be guilty of a Class C misdemeanor and shall be punished by a fine. Each time that a violation of this article occurs shall be deemed a separate offense.

**Sec. 1.403     Electrician's Permit**

- (a) Required; to Whom Issued; Exemption. Nothing in this code shall be construed to prevent a person from doing electrical work himself on his own residence which is owned and occupied by him as such so long as he complies with all the other provisions of this code. This exception shall be construed to mean an individual owner (not firm, copartnership or corporation who does the labor himself). This individual owner shall be present at the time of any electrical inspection.
  
- (b) Application; Scope of Permit Requirements.
  - (1) Every person who shall install, cause to be installed or permit to be installed any electrical wiring, fixtures or equipment or shall make any alteration, addition, change or repair within the scope of this code, shall within forty-eight (48) hours after the commencement of such work make application for a permit therefore with the city inspector.
  
  - (2) Application for permits shall be made in writing upon forms provided by the city inspector's office for that purpose. With such application there shall be filed a diagram or plan showing clearly the character and kind of wiring or installation of fixtures or equipment work to be done. The plan or diagram shall show the way the electrical installation is to be made or the character of any repairs to any existing electric installation. Such application shall include the following information:
    - (A) Street and house number;
    - (B) Name of the owner;
    - (C) Kind of buildings; and
    - (D) A list of electrical fixtures and appliances to be installed.
  
  - (3) The diagram or plans and application shall be referred to the city inspector who shall have the authority to issue or refuse to issue a permit.

- (4) Plans for buildings of more than five thousand (5,000) square feet, based on exterior dimensions or more than two (2) stories in height, shall bear the seal and signature of a professional electrical engineer licensed in the State of Texas.

## **ARTICLE 1.500 FLOOD DAMAGE PREVENTION REGULATIONS**

### **Sec. 1.501 Statutory Authorization**

The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, Section 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:

### **Sec. 1.502 Findings of Fact**

- (a) The flood hazard areas of the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (b) These flood losses are created by the cumulative effect of obstructions in floodplains which 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.

### **Sec. 1.503 Statement of Purpose**

It is the purpose of this article 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 costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and

- (7) Insure that potential buyers are notified that property is in a flood area.

#### **Sec. 1.504 Methods of Reducing Flood Losses**

To accomplish its purposes, this article uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters, or which may increase flood hazards to other lands.

#### **Sec. 1.505 Definitions**

Unless specifically defined below, words or phrases used in this article shall be interpreted to give them the meaning they have in common usage and to give this article its most reasonable application.

Alluvial Fan Flooding. Flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.

Apex. A point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.

Appurtenant Structure. A structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure

Area of Future Conditions Flood Hazard. The land area that would be inundated by the 1-percent-annual chance (100-year) flood based on future conditions hydrology.

Area of Shallow Flooding. A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's flood insurance rate map (FIRM) with a 1-percent or greater annual chance of flooding to an average depth of 1 to 3 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. The land in the floodplain within a community subject to a 1-percent or greater chance of flooding in any given year. The area may be designated as zone A on the flood hazard boundary map (FHBM). After detailed rate making has been completed in preparation for publication of the FIRM, zone A usually is refined into zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.

Base Flood. The flood having a 1-percent chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE). The elevation shown on the flood insurance rate map (FIRM) and found in the accompanying flood insurance study (FIS) for zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the base flood.

Basement. Any area of the building having its floor subgrade (below ground level) on all sides.

Breakaway Wall. A wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

Critical Feature. 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. Any manmade change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated Building. For insurance purposes, a nonbasement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

Existing Construction. For the purposes of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Existing Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

Expansion to an Existing Manufactured Home Park or Subdivision. The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Flood Elevation Study. An examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

Flood Insurance Rate Map (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

Flood Insurance Study (FIS). See Flood Elevation Study.

Flood or Flooding. 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 Protection System. Those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding to reduce the extent of the area 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 Management. The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.

Floodplain Management Regulations. Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for flood damage prevention and reduction.

Floodplain or Flood prone Area. Any land area susceptible to being inundated by water from any source (see definition of flooding).

Floodproofing. Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

Floodway. See Regulatory Floodway.

Functionally Dependent Use. A use, which cannot perform its intended purpose unless it is located or carried out near water. The term includes only docking facilities, 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. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Historic Structure. Any structure that is:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary [of the Interior] to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (A) By an approved state program as determined by the Secretary of the Interior; or
  - (B) Directly by the Secretary of the Interior in states without approved programs.

Levee. 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 to provide protection from temporary flooding.

Levee System. 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. The lowest floor of the lowest enclosed area (including basement). 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 to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured Home. 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. The term manufactured home does not include a recreational vehicle.

Manufactured Home Park or Subdivision. A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean Sea Level. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

New Construction. For determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

New Manufactured Home Park or Subdivision. A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

Recreational Vehicle. A vehicle which is

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Regulatory Floodway. The channel of a river or other watercourse and the adjacent land areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Riverine. Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

Special Flood Hazard Area. See Area of Special Flood Hazard.

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 the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition 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 basement, 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. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether that alteration affects the external dimensions of the building.

Structure. For floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

Substantial Damage. Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

Substantial Improvement. Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before start of construction of the improvement. This term includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (2) Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a historic structure.

Variance. A grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

Violation. 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), (e)(10), (d)(3), (e)(2), (e)(4), or (e)(5) of the National Flood Insurance Program regulations is presumed to be in violation until that documentation is provided.

Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVD) of 1988 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

**Sec. 1.506 Lands to which This Article Applies**

This article shall apply to all areas of special flood hazard within the jurisdiction of the City, including the City's Extraterritorial Jurisdiction (ETJ).

**Sec. 1.507 Basis for Establishing the Areas of Special Flood Hazard**

The areas of special flood hazard identified by the Federal Emergency Management Agency in the current flood insurance rate maps (FIRM) Panel 48291C0275C, dated May 2, 2008 and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

**Sec. 1.508 Establishment of Development Permit**

A floodplain development permit shall be required to ensure conformance with the provisions of this article.

**Sec. 1.509 Compliance**

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this article and other applicable regulations.

**Sec. 1.510 Abrogation and Greater Restrictions**

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 1.511 Interpretation**

In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

**Sec. 1.512 Warning and Disclaimer or Liability**

The degree of flood protection required by this article 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 article does not imply that land outside the areas of special flood hazards or uses permitted

within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

**Sec. 1.513 Designation of the Floodplain Administrator**

The Mayor, or the Mayor's designee, is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program regulations) pertaining to floodplain management.

**Sec. 1.514 Duties and Responsibilities of the Floodplain Administrator**

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit application to determine whether to ensure that the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, then approve or deny all applications for development permits required by adoption of this article.
- (4) Review 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 U.S.C. 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 hazards (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) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure 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 1.507, the floodplain administrator shall obtain, review and reasonably utilize any

base flood elevation data and floodway data available from a federal, state or other source, in order to administer the provisions of Sections 1.517 through 1.521.

- (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) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may approve certain development in zones A1-30, AE, AH, on the community's FIRM which increases the water surface elevation of the base flood by more than 1 foot, provided that the community first completes all the provisions required by Section 65.12.

**Sec. 1.515 Permit Procedures**

- (a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, 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) of all new and substantially improved structures;
  - (2) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of Section 1.518(2);
  - (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated because of proposed development;
  - (5) Maintain a record of all such information in accordance with Section 1.514(1);
- (b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all the provisions of this article 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.

**Sec. 1.516 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 article.
- (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 article.
- (c) Any person or persons 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 article.
- (f) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in Section 1.515(b) of this article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

- (g) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (Section 1.503).
- (h) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (i) 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.
- (j) Prerequisites for granting variances:
  - (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 a 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, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  - (3) Any application to which 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 base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (k) 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
  - (1) The criteria outlined in subsection (a)-(i) are met; and
  - (2) The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

**Sec. 1.517 General Standards**

In all areas of special flood hazards 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 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; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### **Sec. 1.518 Specific Standards**

In all areas of special flood hazards where base flood elevation data has been provided as set forth, the following provisions are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two feet (2') above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in Section 1.515(a)(1), is satisfied.
- (2) Nonresidential Construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to two feet (2') or more above the base flood level or together with attendant utility and sanitary facilities, be designed so that below the base flood plus 2' elevation 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. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.

- (3) 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 which 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 registered professional engineer or architect or meet or exceed the following minimum criteria:
- (A) A minimum of two openings on separate walls having a total net area of not less than 1 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 1 foot above grade.
  - (C) Openings may be equipped with screens, louvers, valves, or other coverings or devices if they permit the automatic entry and exit of floodwaters.
- (4) Manufactured Homes.
- (A) Require that all manufactured homes to be placed within zone A on a community's FHBM or FIRM shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
  - (B) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with zones A1-30, AH and AE on the community's FIRM be elevated so that either:
    - (i) The lowest floor of the manufactured home is a minimum of two feet (2') above the base flood elevation; or

- (ii) The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
- (5) Recreational Vehicles. Require that recreational vehicles placed on sites within zones A1-30, AH, and AE on the community's FIRM either (A) be on the site for fewer than 180 consecutive days; (B) be fully licensed and ready for highway use; or (C) meet the permit requirements of Section 1.515(a), and the elevation and anchoring requirements for manufactured homes in subsection (4) of this section. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

**Sec. 1.519 Standards for Subdivision Proposals**

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Section 1.502, 1.503, and 1.504 of this article.
- (b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Floodplain Development Permit requirements of Sections 1.508 and 1.515; and the provisions of Sections 1.517 through 1.522 of this article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including the placement of manufactured home parks and subdivisions, which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 1.507 or 1.514(8) of this article.
- (d) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**Sec. 1.520 Standards for Areas of Shallow Flooding (AO/AH Zones)**

Located within the areas of special flood hazard established in Section 1.507, are areas designated as shallow flooding. These areas have special flood hazards associated with flood depths of 1 to 3 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; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified).
- (2) All new construction and substantial improvements of non-residential structures;
  - (A) Have the lowest floor (including basement) elevated to or above the base flood elevation or the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least 2 feet if no depth number is specified); or
  - (B) Together with attendant utility and sanitary facilities be designed so that below the base specified flood depth in an AO zone, or below the Base flood elevation in an AH zone, 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 of effects of buoyancy.
- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section.
- (4) Require within zones AH or AO adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.

**Sec. 1.521 Floodways**

Floodways. Located within areas of special flood hazard established in Section 1.507, 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 within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of Sections 1.517 through 1.522.
- (3) Under the provisions of 44 CFR Chapter 1, Section 65.12, of the National Flood Insurance Program regulations, a community may permit encroachments within

the adopted regulatory floodway that would result in an increase in base flood elevations, provided that the community first completes all the provisions required by Section 65.12.

**Sec. 1.522 Penalties for Noncompliance**

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent city council from taking such other lawful action as is necessary to prevent or remedy any violation.

**ARTICLE 1.600 BLOCKAGE OF DRAINAGE DITCHES**

- (a) That it shall be unlawful for any firm, business, corporation or person to obstruct the flow of drainage and/or water in the ditches, pipes, gutters or drains located in the jurisdiction of the City of Plum Grove. That it shall further be unlawful to place any dirt, rubbish, trash, broken concrete, limbs, grass cuttings, cans or anything that will interfere with the flow of any drainage and/ or water, or let the same be done or to accumulate, on or adjacent to said firm, business, corporation, or person's property.
- (b) That it shall be unlawful to place in a drainage ditch any pipe that is smaller than fifteen (15) inches in diameter measured from the inside of the pipe and twenty-four (24) feet in length. It shall further be the duty of every such firm, business, corporation or person to provide the proper and necessary size and type of pipe placed in any ditch on, adjacent or contiguous to their property in the City of Plum Grove and the City's ETJ. Further it shall be the duty of the city manager of the City of Plum Grove, or other such person as may be designated by the manager to establish standards for type of pipe materials allowed, frequency of drain boxes or drops and to give the firm, business, corporation or person installing such ditch, pipe, or gutter the requirements as set out above. Special arrangements can be made for installing a smaller size pipe than the requirements as set above, if approved by the city manager. All property holders shall be required to cover newly installed pipe with material suitable for the purpose required. Special arrangements may be made with the city for back filling culverts during installation.
- (c) When and in the event, pipe is found to be in use in the city which is of improper size or of unacceptable material and said pipe was installed in conflict with the requirements in subsection (b) of this article, the city shall have said pipe removed. If an inadequate pipe was installed under the guidance and regulations of the city or county (prior to city jurisdiction) prior to this or any preceding regulations, the city shall have said pipe replaced at its expense as need requires and funds permit.

- (d) That it shall be unlawful for any person to throw or dispose of garbage, trash, cans, bottles, or other substance onto the streets and/or ditches and gutters in the City (or ETJ) of Plum Grove or permit the same to be done.
- (e) Any firm, business, corporation or person found guilty of violating any part of this article shall be fined and/or required to remedy the violation within 30 days of notification by the City.

# CHAPTER 2

## BUSINESS & COMMERCE

### ARTICLE 2.100 PLACEMENT OF TEMPORARY STRUCTURES

#### Sec. 2.101 Placement Restricted

- (a) It shall be unlawful for any person or persons to erect or place within the fire zone, or within one hundred (100) feet of any line thereof, any portable building, temporary building, trailer, tent, platform or other temporary structure to be used for any retail sales, food or beverage sales, business office, business storage, theater, concert, carnival, exhibition, show or other amusement, whether an admission charge is made or not.
- (b) It shall be unlawful for any person or persons to erect or place any portable building, temporary building, trailer, tent, platform or other temporary structure, to be used for any retail sales, food or beverage sales, business office, business storage, theater, concert, carnival, exhibition, show or other amusement, whether an admission charge is made or not, within three hundred (300) feet of any church, school building, residence or business structure within the city limits or ETJ.

#### Sec. 2.102 Exceptions

- (a) The foregoing subsection (a) and (b) of Section 2.101 are not intended to prevent fairs, festivals, exhibitions, shows, other forms of amusement, sponsored by a local organization, if permission is granted by the mayor and the event is scheduled for two weeks or less, at which time all temporary structures are to be removed.
- (b) In the event any show or other form of amusement is granted permission under or by authority of subsection (a), all other laws, ordinances, codes and regulations shall apply as enumerated in the City of Plum Grove Code of Ordinances, state statutes or federal law.
- (c) Temporary buildings may be allowed and permitted in cases in which fire or other disaster damages or destroys an existing permanent building that was occupied by the same person or persons requesting the use of a temporary building on the same site as the damaged or destroyed building for a period not to exceed twelve (12) months.
- (d) Temporary office building may be used and permitted with city council approval for a period of twelve (12) months when the person or persons requesting the use of a temporary building demonstrate plans to erect a permanent structure within the city limits. Demonstration of plans to erect a permanent structure can be satisfied by the submission of site development and construction plans prepared by an engineer registered

to do business in the State of Texas. Extensions for a period not to exceed twelve (12) months may be granted by city council when, in the council's opinion, such a request is justified, but only in cases in which a building permit was issued for a permanent structure prior to the expiration of the initially permitted twelve (12) months.

### **Sec. 2.103 Violations**

Any person violating any of the provisions of this article shall be fined, and each day of such violation shall constitute a separate offense.

## **ARTICLE 2.200 DRILLING**

### **Sec. 2.201 Permit**

It shall be unlawful and an offense for any person, association of persons, or corporation to commence to drill, to drill, or to operate, any well for the purpose of production and recovering any oil, gas, or liquid hydrocarbon, within the city limits of the City of Plum Grove without a permit for the drilling and operation of such well having first been issued by the authority of the city council of the City of Plum Grove in accordance with the terms of this article.

### **Sec. 2.202 Well Location**

No well shall be drilled, and no permit shall be issued for any well to be drilled at any location which is nearer than three hundred (300) feet to a structure intended for residential, commercial or public use or which is closer than three hundred (300) feet to a residential, commercial or public building site for which a building permit has been issued by the city. However, the three hundred (300) foot set back requirement shall not apply if the applicant for a drilling permit first obtains the written, sworn permission of all surface estate owners and any lienholders of any interest in the surface estate of any real property lying within such three hundred (300) foot setback distance. The applicant for a drilling permit shall have the burden of reasonably satisfying the city that all such surface estate owners and lienholders have been identified.

### **Sec. 2.203 Application and Filing Fee**

Every application for a permit to drill and operated a well shall be in writing, signed by the applicant or by some person duly authorized to sign same on his behalf, and it shall be filed with the city secretary and be accompanied with a filing fee as provided for in the fee schedule found in the appendix of this code. No application shall request a permit to drill and operate but one well, the said application shall include full information, including the following:

- (1) The date of said application;
- (2) Name of applicant;
- (3) Address of the applicant;

- (4) Proposed site of the well, including:
  - (A) Name of fee owner;
  - (B) Name of lessee owner;
  - (C) Brief description of the land.
- (5) Type of derrick to be used;
- (6) The proposed depth of the well.

**Sec. 2.204 Issuance or Refusal of Permit**

The city council, within twenty (20) days after the filing of the application for a permit to drill and operate a well shall determine the provisions for issuance of such permit. Upon compliance with these provisions permit shall be issued.

**Sec. 2.205 Penalty**

Any person who shall violate this article, or any part of the provisions of a drilling and operating permit issued pursuant thereto, or who shall fail to comply with the term thereof, shall be deemed guilty of a misdemeanor and shall, on conviction thereof, be fined; and each day's violation thereof shall be considered a separate offense.

**ARTICLE 2.300 MANUFACTURED HOME**

**Sec. 2.301 Definitions**

The following terms, phrases and words as used in this article, shall have the following respective definitions:

Building Official. Means the chief inspector of the city.

City. Means the City of Plum Grove, Texas. Unless specifically excluded, all regulation of the City shall apply to and be equally enforceable in the Extraterritorial Jurisdiction (ETJ) of the City of Plum Grove, Texas.

Construction Permit. Means the permit required for the construction, alteration or extension of any manufactured home park in the city.

Construction Permittee. Means the person to whom a construction permit has been issued.

Fire Marshal. Means the chief fire hazard and arson inspector of the city.

Label. Means a metal inspection-label or plate which has been permanently affixed by the manufacturer or by an approved testing agency to a manufactured home or recreational vehicle or to equipment used in connection therewith and which contains a serial number, if required, the specifications of the vehicle or the equipment to which it is attached and which refers to any standards that have been met in the construction of such vehicle or equipment.

License. Means a manufactured home park operator's license.

Licensee. Means the person to whom a manufactured home park operator's license has been issued.

Manufacturer. Means the manufacturer of a manufactured home or a recreational vehicle.

Manufactured Home. Means a portable vehicle constructed on a chassis and which has been designed so that it may be occupied and used without a permanent foundation. For this article, a manufactured home shall mean a single-family dwelling unit suitable for year-round occupancy and which has provision for electrical and water connections and which provides for waste disposal in compliance with the city plumbing code requirements for dwellings. Such vehicle shall be constructed on or after June 15, 1976, according to the rules of the United States Department of Housing and Urban Development and have an identifying label as defined herein.

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 dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

Manufactured Home Park. Means a continuous tract or parcel of land, or contiguous tract or parcel of land used for rental occupancy by two or more manufactured homes or mobile homes existing in parks.

Manufactured Home Sales Lot. Means a parcel or tract of land, which is used by a manufactured home or recreational vehicle dealer for the sale of manufactured homes or recreational vehicles.

Manufactured Home Stand. Means that part of a manufactured home park, which has been improved for the placement of the manufactured home including all required appurtenances and having provision for available utility connections.

Occupant. Means the person or persons who occupy or own a manufactured home or recreational vehicle in a manufactured home park.

Owner. Means the owner or lessor, whether one or more, of the premises on which a manufactured home park or manufactured home lot is operated when such person is not a licensee.

Person. Means a natural person, his heirs, executors, administrators or assigns, and shall also include a firm, partnership or corporation, its successors or assigns or the agent of the aforesaid.

Recreational Vehicle (RV). Means a portable vehicle built on a chassis and designed as a temporary dwelling for travel, recreation and vacation use and which has been permanently identified by the manufacturer when such a vehicle has been equipped by the manufacturer for use on public streets and highways, the body of such vehicle shall not exceed eight feet (8) in width. The term recreational vehicle shall also be deemed to include all other portable contrivances other than manufactured homes used or intended to be used generally for living and sleeping quarters which may be moved under its own power, towed, or transported by another vehicle.

Service Building. Means a structure housing toilet facility, lavatories, bathing facilities, and such other facilities as may be required or permitted under the provisions of this article and which is used in connection with the operation of a manufactured home park.

Sewer Connections. Means the connection consisting of the pipes, fittings and appurtenances from the drain outlet of the manufactured home, recreational vehicle or existing mobile homes to the inlet of the corresponding sewer riser pipe of the sewer system serving the manufactured home park.

Sewer Riser. Means that portion of the pipe of the sewer lateral which extends vertically to the ground elevation and terminates at each manufactured home stand.

Utilities. Means the sewer collection, water, gas or electrical distribution system, which are available for connection to manufactured homes or recreational vehicles in manufactured home parks.

Utility Connection. Means the connection of available utilities to a manufactured home or recreational vehicle placed on a manufactured home stand in a manufactured home park.

Vehicle. Means a manufactured home or a recreational vehicle unless the context in which the word is used indicates that another meaning is intended.

Water Connection. Means the connection of the pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe for the water distribution system of a manufactured home or recreational vehicle.

## **Sec. 2.302      General Restrictions**

- (a) No "Mobile Homes" shall be allowed to be placed or relocated in the city corporate limits. An existing mobile home located in the city corporate limits, as of the date of this article will be allowed to remain on its existing site until it is removed from the city or until the condition of the mobile home violates the city codes. When the condition of the mobile home violates city codes, the building official shall require the owner to move the mobile home out of the city or demolish it. In the case of fire or natural disaster resulting

in irreparable damage to a mobile home, a replacement manufactured home may be installed provided it is in full compliance with all codes and regulations effective on the date of installation.

- (b) All manufactured homes shall be placed in accordance with all applicable codes and must be connected to water, sewer, electrical utilities, and other services that are required for the health and safety of the occupants. An existing manufactured home located in the city corporate limits and outside a manufactured home park must be fitted with skirting specifically designed for that purpose. When the condition of a manufactured home violates city codes, the building official shall require the owner to move the manufactured home out of the city or demolish it.
- (c) Recreational vehicles dependent upon outside sources for power, water and/or waste disposal or containment shall not be allowed to be used for temporary or long-term occupancy in the city limits except when located within a licensed manufactured home park or recreational vehicle park. Recreational vehicles that are designed to be temporarily occupied independently of outside sources for power, water and waste disposal and/or containment shall be allowed to be used for temporary or long-term occupancy within a manufactured home park or recreational vehicle park and shall be allowed to be used for temporary occupancy outside a manufactured home park or recreational vehicle park for a maximum of 72 hours per calendar month.

To accommodate the needs of city residents wishing to have temporary visitors, the Mayor may grant approval to locate and occupy a travel trailer for no more than two weeks at a time if it is determined that such temporary occupancy would have no significant impact on surrounding properties. Residents seeking this exemption should address a letter requesting and detailing all the including a designated time to city hall and to the Mayor's attention.

- (d) As an exception to (c) above, recreational vehicles may be temporarily placed within the corporate limits or ETJ when the primary purpose of such recreational vehicle is the temporary housing of one (1) or more construction workers who are bona fide, full-time volunteers, employees, contractors, sub-contractors or workers at a construction site or construction project within the corporate limits of the city or the city's extraterritorial jurisdiction. Before any person places or locates a recreational vehicle pursuant to this subsection, such person shall first complete, submit to the city and have approved by the city an application for the location of such recreational vehicle. Such application shall be in such form as prescribed by the city manager, but at a minimum shall contain provisions for the applicant to provide the applicant's full name, permanent residential address, Texas Driver's License number, identification of the recreational vehicle (including its owner), proposed location within the city of the recreational vehicle, arrangements for safe, sanitary, electrical, potable water and sewer hook-ups, written authorization or approval from the land owner to locate such recreational vehicle and the period of time such recreational vehicle shall be at such location. The Mayor or the Mayor's designee shall approve such application and written approval shall be conspicuously posted on a readily accessible window (facing out) of such recreational

vehicle. The city shall charge each person whose application is approved all the prevailing, applicable fees that are required to be paid to the city for residential inspections, electrical, water and sewer connections.

- (e) A recreational vehicle approved for location in the city pursuant to subsection (d) above shall not be moved from the approved location except for its removal from the city. Each approved recreational vehicle shall be removed from the city limits upon the first to occur of the following events:
- (1) completion of the occupant's work at construction site;
  - (2) cessation of the use of the recreational vehicle as a temporary residence for one or more bona fide construction workers; or
  - (3) the expiration of thirty (30) days from the date of approval of the application for recreational vehicle, whichever date occurs first.

The city shall be entitled to make inspections or inquiries from time to time to determine compliance with subsections (c), (d) and (e) of this section.

- (f) It shall be unlawful for any person to occupy a recreational vehicle under subsections (d) and (e) of this section unless such recreational vehicle is occupied as the temporary residence of one or more bona fide full-time construction worker working on or in connection with a construction project within the corporate limits of the city or the city's extraterritorial jurisdiction. It shall be unlawful for any person to move a recreational vehicle from an approved location unless such removal is for the sole purpose of moving the recreational vehicle from the city limits. In the event of a violation of subsection (d) and/or (e) above, the city may proceed by civil suit, application for injunction or any other remedy available at law or in equity to enforce this section.
- (g) As an exception to the (c) above, a recreational vehicle or a manufactured home may be temporarily placed within the corporate limits when the sole purpose of such recreational vehicle or manufactured home is the temporary housing of one (1) or more persons whose home within the corporate limits has been damaged to the extent that it cannot be inhabited. Any such temporarily placed recreational vehicle or manufactured home shall be placed on the same lot as the damaged home (or on an adjoining lot under the same ownership) so long as applicable city setback and other city requirements are complied with. Before any person places or locates a recreational vehicle or manufactured home pursuant to this subsection, such person shall first complete, submit to the city and have approved by the city an application for the location of such recreational vehicle or manufactured home. Such application shall be in such form as prescribed by the city manager, but at a minimum shall contain provisions for the applicant to provide the applicant's full name, permanent residential address, Texas Driver's License number, identification of the recreational vehicle or manufactured home (including its owner) to be temporarily located on the lot (or on an adjoining lot under the same ownership), a surveyor's plat or accurate drawing disclosing the proposed location of the temporary

recreational vehicle or manufactured home within the city, compliance with setback and building separation requirements, arrangements for safe, sanitary, electrical, potable water and sewer hook-ups, the number of persons to occupy such recreational vehicle or manufactured home and the period of time such recreational vehicle or manufactured home shall be at such location, which time shall not exceed ninety (90) days from the date the application is approved, unless such time is extended by the city council. The city council shall act on a properly completed application and, if approved, a permit or other written evidence of approval shall be issued by the city and shall be conspicuously posted on a readily accessible window (facing outward toward the nearest public street) of such temporary recreational vehicle or manufactured home. The city shall charge each person whose application is approved all the prevailing, applicable fees that are required to be paid to the city for residential inspections and for electrical, water and sewer connections.

- (h) Upon application on a form prescribed by the city, an extension of time for the location of a recreational vehicle or manufactured home may be granted by the city council for up to an additional ninety (90) days. Good cause must be shown for any such extension.
- (i) A recreational vehicle or manufactured home approved for temporary location pursuant to (g) above shall cease to be occupied and shall, in the case of a manufactured home, be removed from the city limits upon the first to occur of the following events:
  - (1) Completion of the repair work at the home that was damaged;
  - (2) Cessation of the use of the recreational vehicle or manufactured home as the temporary residence for one or more bona fide owners or occupants of the damaged home; or
  - (3) The expiration of ninety (90) days from the date of approval of the application for the temporary use and placement of the recreational vehicle or manufactured home.

Whichever of such events occurs first, the city shall be entitled to make inspections or inquiries from time to time to determine compliance with subsections (g), (h) and (i) of this section, and to verify the contents of the application filed in connection with the temporary use of a recreational vehicle or manufactured home.

- (j) It shall be unlawful for any person to occupy a recreational vehicle or manufactured home under (g) and (h) above unless such recreational vehicle or manufactured home is occupied as the temporary, full-time residence of one or more owners or occupants of the damaged home. It shall be unlawful for any person to move a recreational vehicle or manufactured home from an approved location to another location within the city, unless such other location is authorized by city ordinance. In the event of a violation of (g) and/or (h) of this section as amended, the city may proceed by civil suit, application for injunction or any other remedy available at law or in equity to enforce this section.

**Sec. 2.303 Miscellaneous Manufactured Home Requirements**

- (a) All manufactured homes and mobile homes in the city shall have a skirt that will conceal from view the undercarriage on all sides of the manufactured home. Skirting shall be of durable materials suitable for exterior exposures. Skirting must not be attached in a manner that can cause water to be trapped between the siding or trim to which it is attached. The skirting shall be recessed under the siding or trim. Wood in contact with ground level which supports permanent structures, shall be approved preservative-treated wood suitable for ground contact use. Skirting design shall comply with city codes. Existing manufactured homes and mobile homes in the city as of the date of this article will have two years from date of adoption of this article to comply with this requirement.
- (b) All manufactured and/or mobile homes located within newly annexed areas on or after the adoption of this article shall come under compliance with this section within two (2) years from the date of annexation.

**Sec. 2.304 Construction Permit Required for Manufactured Home Parks**

- (a) It shall be unlawful for any person to construct, alter or extend any manufactured home park within the corporate limits of the city without obtaining a manufactured home park construction permit approved by city council. An exception to city council approval shall be made in cases in which an existing manufactured park owner applies to renovate a portion of such park for additional recreation vehicles (RVs) spaces. Such renovation must comply with all provisions under subsections (d)–(g) of this section.
- (b) Application for such manufactured home park construction permit shall be made to the building official and the following information and items shall be furnished:
  - (1) Name and address of applicant.
  - (2) Written proof of interest from the applicant in the manufactured home park and the tract or parcel of land the park will encompass.
  - (3) Location and legal description of the manufactured home park.
  - (4) Complete engineering plans and specifications prepared by a licensed professional engineer for the proposed park showing:
    - (A) Topographic contours of not more than one (1) foot intervals.
    - (B) Title or name of the manufactured home park.
    - (C) Names and addresses of persons or firms preparing plans and specifications.
    - (D) North point and scale.

- (E) Key map showing location of the manufactured home park in relation to any existing streets and highways and original survey lines.
- (F) The area and dimensions of the tract of land.
- (G) A plat or map of the proposed manufactured home park showing the number, location and size of all manufactured home sites, stands, locations and widths of roadways and walkways, service buildings and other proposed structures.
- (H) The location of water and sewer lines and riser pipes.
- (I) Plans and specifications for the water system, sewer system and refuse disposal facilities.
- (J) Plans and specifications for all buildings to be constructed within the manufactured home park.
- (K) The location and details of lighting and electrical systems.
- (L) Five copies of the plans and specifications on twenty-four inch by thirty-six-inch blue line prints shall be submitted to the building official for review.
- (M) A fee as provided for in the fee schedule found in the appendix of this code.
- (N) The building official will present a recommendation for approval to the city council when the plans and specifications are completed in accordance with this article.
- (O) After approval by the city council, two final approved copies of the plans and specifications shall be submitted to the building official or records retention before a permit is issued.
  - (i) An application for a manufactured home park construction permit shall be deemed filed with the city upon the payment of the required fee and upon submission of the written development information required by this section. The written development information shall be filed with the building official, who shall stamp or write the date of receipt thereon. The required fee shall be paid to the building official, who shall give the applicant a copy of the receipt indicating the date and amount of payment.
  - (ii) Within thirty (30) calendar days from the date of the applicant's filing, the building official shall review the written development

information to determine its compliance with this article. Within five (5) calendar days after such review, the building official shall notify the applicant in writing of either: a) the approval of such information, subject to final action by the city council, or b) setting out any deficiencies in the application. If the deficiencies are not corrected and/or clarified to the satisfaction of the building official within sixty (60) calendar days from the filing of the information, then the application shall automatically expire, and all fees paid by the applicant to the city shall be forfeited. Should the applicant thereafter desire to proceed further with an application for a manufactured home park construction permit, a new application and the payment of another filing fee shall be acquired according to the ordinance provisions then in effect.

(iii) On the ground construction of the park shall commence within one hundred eighty (180) calendar days following the granting of a permit and if such construction does not commence within such time the permit shall automatically terminate and a new application and another filing fee shall be required according to ordinance provisions then in effect. Should on the ground construction timely commence, but then cease for a continuous period more than one hundred eighty (180) calendar days, then the permit shall automatically terminate, and a new application and another filing fee shall be required according to ordinance provisions then in effect. If construction of the manufactured home park is not completed within three hundred and sixty-five (365) calendar days from the date the permit is granted, the permit shall automatically terminate, and a new application shall be filed with the required fee and pursuant to the ordinance provisions then in effect.

(Q) A permit issued by the city shall be issued to the applicant, shall show the date of issuance and shall show thereon the date of its automatic termination if construction is not timely completed. A permit shall be signed on behalf of the city by the building official or the city manager.

(c) A separate permit shall be required for the building, electrical, plumbing, driveway, sidewalk and other permits when required by city codes.

(d) An existing manufactured home park licensee in good standing may make application for an RV renovation permit to the city's planning director to replace existing manufactured park spaces or previously unoccupied areas of the park with additional recreational vehicle spaces. Applications must include the following:

(1) Name and address of applicant.

(2) Written proof of current city manufactured home park license.

- (3) Location and legal description of the manufactured home park.
- (4) Plans and specifications for the additional proposed RV spaces showing:
  - (A) The area and dimensions of the tract of land containing the manufactured home park.
  - (B) A drawing of the proposed renovation area of the manufactured home park showing the number, location and size of all current manufactured home sites, and proposed additional RV spaces with dimensions and parking area for each.
  - (C) The location of proposed additional water and sewer lines and riser pipes.
  - (D) Plans and specifications for additions to the park water and sewer lines.
  - (E) The location and details of electrical systems and connections.
  - (F) The location of additional roadway specifications and drainage required.
  - (G) A fee as provided for in the fee schedule found in the appendix of this code.
- (e) The planning director and the building official shall review the proposed alteration of the existing manufactured home park based upon minimum separations, setbacks and adherence to city building, plumbing and electrical code ordinances with the understanding that the available space configuration may dictate the maximum size of RV units allowed in a renovated area. At least one additional parking space is required for each new RV stand. In no case will the overall density of the manufactured home park be allowed to exceed the density stated in the city's RV park ordinance of 20 units per acre.
- (f) After approval of submitted plans by city development staff, an RV space addition permit will be issued provided an inspection by city staff determines that at the time of permit issuance the existing manufactured home park is compliant with city regulations on required skirting and removal of all structures deemed dilapidated or in substandard condition. Permit application will be deemed expired after six months if all conditions for permit approval and issuance are not met. Application fees will not be returned in case of expiration. Permit will expire if construction is not complete within 12 months of issuance and will require reapplication and an additional fee for further alterations to allow additional RV spaces.
- (g) Additional RV spaces added to existing manufactured home parks under this provision will be counted as additional units for licensing purposes on the following January 1st and in succeeding years. The renovated spaces for additional RVs may be returned to the original configuration for mobile homes upon notification of such intent by the park

owner to the city development staff with plans submitted. No additional fee shall be charged.

**Sec. 2.305 Manufactured Home Park Operator's License Required**

- (a) It shall be unlawful to establish, maintain or operate a manufactured home park without first securing a manufactured home park license and comply with all aspects of this article.
- (b) Licenses shall be valid for a period of one year beginning on January 1<sup>st</sup> of each year and shall be renewable annually during the month of December. A nonrefundable license application fee shall accompany each application for a license and license renewal. The city shall determine the license and annual license renewal fees. The amount of these fees shall be given in a separate fee schedule.
- (c) To receive a license renewal, the manufactured home park operator must provide a park inventory to the building official in a format approved by the city. This inventory shall include, but small not be limited to, the following information about each manufactured home or recreation vehicle: owner's name and address, size, manufacturer, move-in date and current condition.
- (d) License renewal fees for mobile home parks existing on the effective date of this article shall double each year the park is not in compliance with Section 2.303(a), requiring skirting, and Section 2.310(f) (3), requiring screening fences.

**Sec. 2.306 Permit Required Placing a Manufactured Home**

- (a) It shall be unlawful for any person to place a manufactured home in a manufactured home park or at any other location as described in Section 2.302(a) or a manufactured home as described in Section 2.302(b) without first securing a permit from the city. Proof of ownership, year model, serial number, HUD label number and location to be placed shall be required for securing a permit.
- (b) It shall be unlawful for any person to occupy a manufactured home in a manufactured home park or at any other location as described in Section 2.302(a) or a manufactured home as described in Section 2.302(b) unless such manufactured home has first been connected to the utilities.
- (c) No manufactured home may be moved into or be relocated to or within a noncompliant manufactured home park.

**Sec. 2.307 Inspection of a Manufactured Home Park**

- (a) The building official shall make such inspections as are necessary to insure compliance with the provisions of this article.

- (b) By the acceptance of the license, the licensee shall be deemed to authorize the inspection of a manufactured home park at all reasonable hours. Such hours shall usually be during normal working hours and failure to permit such inspection shall be grounds for suspension or revocation of the license. Where there is reason to believe a violation may exist before or after the hours of normal inspection, the building official may authorize special inspections at any time.
- (c) Failure or refusal of a manufactured home park occupant to permit inspection of the manufactured home park by the building official, or to permit the licensee to make necessary repairs or alterations in compliance with the requirements of the building official shall be violation of this article. The manufactured home occupant shall have the right to appeal any decision, order or action of the building official by following the same procedure provided for appeals from license denials, suspensions or revocations by the building official.

**Sec. 2.308 Suspensions, Revocations and Disconnections**

- (a) The building official shall have authority to suspend or revoke a license or to order utility disconnections for the following violations of the provisions of this article:
  - (1) License may be suspended for any period up to six months for a violation affecting the health, safety or welfare of occupants of a manufactured home or of other persons or property.
  - (2) A license may be revoked for a violation, which is dangerous to life.
  - (3) For a violation of the provisions of this article deemed to require a license suspension or revocation, the utility connection servicing any manufactured home stand or stands, or any structure in a manufactured home park, may be disconnected or caused to be disconnected, provided a utility disconnection may be ordered in connection with a license suspension or revocation as to all or any part of a manufactured home park if necessary to protect the health, safety or welfare of occupants or of other persons.
- (b) The following procedures shall apply to a suspended or a revoked license:
  - (1) After the period of suspension, a suspended license will be reinstated by the building official upon a showing of ability and willingness by the licensee to comply with the provisions of this article.
  - (2) A person whose license has been revoked may apply for a new license six months after such revocation by making a new application and paying the required fee. Before granting such new license, the building official shall require the applicant to show ability and willingness to comply with the provisions of this article.

- (3) No sale, transfer or assignment of a revoked license or of a license during the period of suspension will be recognized by the city, provided, a person whose license has been suspended or revoked may sell, transfer or assign his interest in the premises, if any, to another person who may then make application for a license to operate the manufactured home park. If it is shown by the applicant that he has had no previous responsible connection with the manufactured home park; he will be eligible for the granting of a new license and if a new license is granted, the new licensee may commence to operate the manufactured home park upon issuance of the license.
  - (4) Where a person whose license has been suspended or revoked has no interest in the premises other than by agreement with the owner of the premises, such person may advise the city in writing of his withdrawal from any further connection with the manufactured home park. In this event, and if it be shown that the owner or owners had no responsible connection with the actual operation and maintenance of the manufactured home park, a new application may be made by any person other than the person whose license was suspended or revoked and if the new license is granted, the new licensee may commence to operate the manufactured home park upon issuance of the license.
- (c) The remedies provided for in this section for violations of this article shall not prevent the city from pursuing other penalties provided for elsewhere in this article or other city codes.

**Sec. 2.309 Appeals from Decisions of Building Official**

- (a) Any person whose application for a license has been denied by the building official shall have the right to appeal such decision to the city council.
- (b) Any license revocation or suspension, or any order for a utility disconnection, or any decision, order or action taken by the building official may be appealed by any person affected by the decision to the city council.

**Sec. 2.310 Construction, Environmental, Open Space and Access Requirements for Manufactured Home Parks**

- (a) General Requirements.
  - (1) This section shall only apply to the construction of new manufactured home parks and to any expansion areas of existing parks except as noted in Section 2.310(f)(3).
  - (2) The minimum size of a new or expanded manufactured home park shall be five (5) acres.

- (b) Soil and Ground Cover Requirements. Exposed ground surfaces in all parts of every manufactured home park shall be paved, or covered with stone screenings, or other solid material, or protected with a vegetative growth that can prevent soil erosion and of eliminating objectionable dust.
- (c) Site Drainage Requirements. The ground surface in all parts of every manufactured home park shall be graded and equipped to drain all surface water in a safe efficient manner. The following shall be shown on the plans and specifications:
- (1) Calculations showing the anticipated storm water flow, including watershed area, percent runoff, and time of concentration. When a drainage ditch or storm sewer is proposed, calculations shall be submitted showing basis for design.
  - (2) When a drainage channel or storm sewer is proposed, complete plans, profiles, and specifications shall be submitted, showing complete construction details.
  - (3) When conditions upstream or downstream from a proposed channel or storm sewer do not permit maximum design flow, high water marks based on five (5) year frequency, shall be indicated based on existing conditions.
  - (4) Condition of soil, ground water level, drainage and topography shall not create hazards to the property or the health or safety of the occupants.
- (d) Required Separation Between Manufactured Homes in Manufactured Home Parks.
- (1) Manufactured homes shall be separated from each other and from buildings and structures by at least fifteen (15) feet on the sides and end-to-end clearance of ten (10) feet. Existing manufactured homes in manufactured home parks as of the date of this article are exempt from this requirement.
  - (2) An accessory structure which has a horizontal area exceeding twenty-five (25) square feet, is attached to a manufactured home or located within ten (10) feet of its window and has an opaque top or roof that is higher than the nearest window, shall, for purposes of all separation requirements, be part of the manufactured home.
- (e) Required Recreation Areas.
- (1) In all parks accommodating or designed to accommodate twenty-five (25) or more manufactured homes, there shall be not less than one recreation area which shall be easily accessible to all park residents.
  - (2) The size of such recreation areas shall be based upon a minimum of one hundred (100) square feet for each manufactured home stand. No outdoor recreation area shall contain less than 2,500 square feet.

- (3) Recreation areas shall be so located as to be free of traffic hazards and should, where the topography permits, be centrally located.

(f) Required Setbacks, Buffer Strips and Screening in Manufactured Home Parks.

- (1) Any manufactured home park constructed after the adoption date of this article shall be located seven hundred fifty (750) feet or more from an existing residence, church or school area. All existing manufactured home parks as of the adoption date of this article are not required to meet the requirement unless a manufactured home park has not had its license renewed for a period of two consecutive years. At such time, the building official shall require the manufactured home park to be seven hundred fifty (750) feet or more from an existing residential area.
- (2) All manufactured homes shall be located at least twenty-five (25) feet from any property boundary line abutting upon a public street or highway and at least ten (10) feet from interior property boundary lines.
- (3) All manufactured home parks shall be screened with a minimum six (6) feet high wooden or concrete block fence surrounding the park boundary lines. One front and rear entrance to the park shall be the only allowed openings in the fence. The fence shall be built in accordance with the city codes and shall be inspected for proper maintenance by the building official during the annual inspection of the park. Existing manufactured home parks in the city as of the date of this article will have five years to build a fence six (6) feet high that shall be galvanized chain link with evergreen shrubbery approved by the building official, that will totally cover the fence, with the option to build a wooden or concrete fence. With the approval of the building official fencing in existing parks may be adjusted at park entrances or at intersecting streets bordering the manufactured home park to maintain visibility necessary for the safe flow of vehicle traffic.

(g) Park Street Systems:

(1) Street Construction and Design Standards.

- (A) General. The street pattern of a manufactured home park should provide adequate circulation with the park and shall be considered in their relation to existing and planned streets, to topographical conditions, to public safety and convenience. The street layout shall be devised for the most advantageous development of the entire neighborhood and shall conform to connecting streets in land adjacent to the new park. The street system layout shall be so designed insofar as practicable to preserve natural features such as trees, brooks, hilltops, scenic views and other such features. The street system layout shall provide for the acceptable disposal of storm water and provision shall be made by the developer to handle storm water to comply with provisions elsewhere in this article.

- (B) Right-of-way Requirements. All streets shall have a minimum right-of-way width of sixty feet (60'). Alleys, where provided, shall not be less than twenty feet (20') wide. Intersecting alleys shall have corner cutoffs of at least twenty feet (20') on a side. Alleys with only one point of access shall have a turnaround with a minimum radius of twenty feet (20') at their closed ends.
- (C) Curves. Streets shall have a minimum centerline radius of one thousand feet (1,000') or more for reverse curves. Minimum tangent between points of curvature shall be fifty feet (50').
- (D) Offsets. Street offsets must be offset a minimum distance of one hundred twenty-five feet (125') on centerline. Offset distance shall be indicated on the final plat.
- (E) Intersections.
- (i) All streets and alleys are to intersect at a ninety (90) degree angle with variations of ten (10) degrees subject to approval upon evidence of good cause.
  - (ii) Acute angle intersections approved by the city council are to have thirty-foot (30') radii at acute corners.
  - (iii) Street or alley intersections with or extending to meet an existing street or alley will be tied to the existing street or alley on centerline, with dimensions and bearings to show relationship.
- (F) Cul-de-sac Streets.
- (i) Turnarounds are to have a minimum right-of-way radius of fifty feet (50').
  - (ii) Maximum length of cut-de-sac shall be eight hundred feet (800').
  - (iii) Temporary turnarounds, conforming to the minimum radii requirements are to be used where curb and gutter are not installed at the end of a street more than four hundred feet (400') long which will be extended in the future. (The following note shall be provided on the final plat when a temporary turnaround is used: "Crosshatched area is a temporary easement for turnaround until street is extended (direction) in a recorded plat.")
- (G) The following minimum standards apply to manufactured home park street paving:

- (i) All streets will be constructed of reinforced concrete and shall have curb and gutter.
- (ii) All streets shall have a minimum pavement width of thirty feet (30').
- (iii) Cross Section. A standard cross section for a street shall be thirty feet (30') wide by six inches (6") thick for concrete. At intersections, curb return radius shall be twenty feet (20'); cul-de-sacs, thirty-five feet (35').
- (iv) Concrete.
  - (aa) Reinforcing Steel.
    - (1) Material - Open hearth new billet steel.
    - (2) Yield Strength - Sixty thousand (60,000) pounds per square inch, minimum.
    - (3) Splices - Twenty-four (24) bar diameters.
    - (4) Bar Size and Spacing - No. 3 bars at eighteen-inch (18") centers, each way.
    - (5) Bar Support - Metal or plastic "chairs" shall be used to hold bars in position during placement of concrete.
  - (bb) Concrete Mixture.
    - (1) Flexural Strength - Six hundred (600) pounds per square inch minimum modulus of rupture at twenty-eight (28) days (American Society of Testing and Materials, C-78, 3rd point loading).
    - (2) Slump - Three inches (3") maximum.
    - (3) Cement - Factor five and one-half (5.5) bags per cubic yard, minimum.
  - (cc) Cement - Type I (normal) Portland cement, or with Building Official approval, Type III (high early strength).

- (dd) Aggregate - Course and fine aggregate shall meet the requirements of Texas Department of Transportation Standard. Specification "Item 360" for concrete pavement.
- (ee) Jointing
  - (1) Depth of Contraction Joints - One-fourth (1/4) of slab thickness.
  - (2) Transverse Spacing - Twenty feet (20').
  - (3) Expansion Joints - at intersections.
  - (4) Wood Joints - Sound heart redwood.
  - (5) Joint Seal - O.A.90 asphalt.
- (ff) Curing - Curing method shall retain at least ninety-seven percent (97%) of moisture at twenty-four (24) hours, at least ninety-five percent (95%) at three (3) days, and at least ninety-one percent (91%) at seven (7) days. (American Society of Testing and Materials Procedure C-5).
  - (1) Tests Flexural Strength - Three (3) molds per two hundred (200) linear feet.
- (hh) Placement - Concrete shall not be placed on frozen subgrade; when air temperature is thirty-eight (38) degrees Fahrenheit or below; when air temperature is below forty-two (42) degrees Fahrenheit and declining; when finishing cannot be completed during natural daylight.
- (2) Required Illumination of Park Street Systems. All manufactured home parks shall be furnished with lighting units so spaced and equipped with luminaries placed at such mounting heights as will provide the following average maintained levels of illumination for the safe movement of pedestrians and vehicles at night.
  - (A) All parts of the park street system shall have a minimum of 100 watts of illumination every 200 feet.
  - (B) Potentially hazardous locations, such as major street intersections and steps or stepped ramps shall be individually illuminated.
- (h) Required Off-Street Parking Areas.

- (1) Concrete paved off-street parking areas shall be provided in all manufactured home parks for the use of park occupants and guests. Such areas shall be furnished at the rate of not less than two (2) spaces for each manufactured home stand, each space to be accessible without moving another car.
- (2) Required car parking spaces shall be so located as to provide convenient access to the manufactured home but shall not exceed two hundred (200) feet from the manufactured home that it is intended to serve.

(i) Manufactured Home Stands.

- (1) The manufactured home stand shall be improved to provide adequate drainage for the entire area under manufactured home, securing the superstructure for the placement and tie-down of the manufactured home.
- (2) The manufactured home stand shall not lean, shift or settle unevenly under the weight of the manufactured home due to inadequate drainage, vibration or other forces acting on the superstructure.
- (3) Manufactured homes shall be secured according to the building code, to prevent against uplift, sliding, rotation and overturning.

**Sec. 2.311 Water and Sewer System**

(a) General Requirements. A manufactured home park shall be connected to the city water system.

(b) Water Distribution System.

- (1) The water supply system serving the manufactured home park shall be connected by pipes or other approved material to all manufactured homes, buildings, and other facilities requiring water.
- (2) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with the requirements of city codes and shall be of a type and in locations approved by the building official.
- (3) The pressure of the water system should routinely be kept between 40 and 60 psi. State Health Department standards require that the minimum pressure in the distribution system not fall below 35 psi during normal operations and should not drop below a 20-psi residual pressure under all conditions.
- (4) Each manufactured home stand, buildings and other facilities requiring water shall be individually metered. Maintenance of the water distribution system within the manufactured home park shall be the responsibility of the park owner. Unobstructed working easements within the manufactured home park extending

from the city water main to each meter location shall be granted to the city for emergency repairs and meter reading. Emergency repairs performed by the city within the manufactured park shall be at the expense of the park owner.

(c) Individual Water-Riser Pipes and Connections.

- (1) Individual water riser pipes shall be located within the confined area of the manufactured home stand shall a point where the water connection will approximate a vertical position.
- (2) Water riser pipes shall extend at least four inches above ground elevation. The pipe shall be not less than three quarter (3/4) inch in diameter. The water outlet shall be capped when a manufactured home does not occupy the stand.
- (3) Adequate provision shall be made to prevent the freezing of service lines. Valves and riser pipes shall be protected from heaving and/or thawing actions of the ground. Surface drainage shall be diverted from the location of the riser pipe.
- (4) A shutoff valve shall be provided near the water riser on each manufactured home stand.
- (5) Underground stop and waste valves. shall not be installed on any water service.

(d) Sewer Collection System--General Requirements. A manufactured home park shall be connected to the city sewer system.

(e) Sewer Lines. All sewer lines shall be in trenches of enough depth to be free of breakage from traffic or other movements and shall be separated from the park water distribution system at a provided by state law and city codes. Sewer lines shall be at a grade, which will insure adequate flow as delineated in the city codes. All sewer lines shall be constructed of approved materials, shall be adequately vented, and shall have watertight joints. Maintenance of sewer lines within the manufactured home park shall be the responsibility of the park owner.

(f) Individual Sewer Connections.

- (1) Each manufactured home stand shall be provided with at least one four (4) inch diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the manufactured home drain outlet will approximate a vertical position. Each manufactured home stand shall be provided with a four (4) inch P-trap for the manufactured home sewer connection and be properly vented.
- (2) The sewer connection shall have an inside diameter not less than three inches, and the slope of any portion thereof shall be at least one-fourth inch per foot. The

sewer connection shall consist of one pipeline only without any branch fittings. All joints shall be watertight.

- (3) All materials used for sewer connections shall be semirigid corrosive resistant, non-absorbent and durable. The inner surface shall be smooth.
- (4) Provision shall be made for capping the sewer riser pipe when a manufactured home does not occupy a stand. Surface drainage shall be diverted away from the riser. The rim of the riser pipe shall extend at least four inches above the ground elevation.
- (5) Sewer lines shall conform to all city codes.

#### **Sec. 2.312 Electrical System**

- (a) General Requirements. All manufactured home parks shall contain an electrical wiring system consisting of wiring, fixtures, equipment and appurtenances, which shall be installed and maintained in accordance with city codes.

#### **Sec. 2.313 Refuse Handling**

- (a) The storage, collection and disposal of refuse in the manufactured home park shall be conducted in a manner that will not create health hazards, rodent harborage, insect breeding areas, accidental fire hazards and/or air pollution. There shall be one (1) yard container for each 10 families. All containers shall be placed for ease of pickup by the solid waste disposal service, on a concrete pad with curbs, with a three sided 6 feet high fence.
- (b) For individual pickup, each resident shall put all refuse in lidded trash container, which shall always be lidded.

#### **Sec. 2.314 Fuel Supply and Storage**

- (a) Natural Gas System.
  - (1) Natural gas piping systems shall be installed and maintained in accordance with the city codes and other regulations governing such systems.
  - (2) Each manufactured home stand provided with piped gas shall have an approved manual shutoff valve installed upstream of the gas outlet. The outlet shall be equipped with an approved cap to prevent accidental discharge of gas when the outlet is not in use.
- (b) Liquefied Petroleum Gas Systems.

- (1) Liquefied petroleum gas systems shall be installed and maintained in accordance with applicable laws, codes and regulations governing such systems. Bulk storage and distribution system plans shall be submitted to the fire marshal for approval. a

**Sec. 2.315 Fire Protection**

- (a) Manufactured home parks shall be kept free of litter, rubbish and other flammable materials.
- (b) Portable fire extinguishers of a type approved by the fire marshal shall be kept in service buildings and all other locations designated by the fire marshal. Such extinguisher shall be maintained in good operating condition.
- (c) Fires shall be made only in stoves, incinerators and other equipment intended for such purposes.
- (d) Fire hydrants and fire protection systems shall be provided as required under city Ordinances or Building Codes.

**Sec. 2.316 Miscellaneous Park Requirements**

(a) Responsibilities of the Manufactured Home Park Licensee.

- (1) The person to whom a license for a manufactured home park has been issued shall be responsible for operation of such park in compliance with the provisions of this article and shall provide adequate supervision to maintain such park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (2) The licensee shall be responsible for notifying park occupants of the applicable provisions of this article.
- (3) The licensee shall be responsible for supervising the placement of manufactured homes or recreational vehicles on manufactured home stands within the manufactured home park. The licensee shall be responsible: for maintaining a register containing the names of all park occupants. Such register shall be available to any authorized person inspecting the park for the enforcement of this article, or any other ordinances of the city.

(b) Responsibilities of Park Occupants.

- (1) Manufactured home park occupants shall comply with all applicable provisions of this article and such occupant shall maintain his manufactured home, manufactured home stand, appurtenances and equipment in good repair and in a clean and sanitary condition.

- (2) The manufactured home park occupant shall be responsible for the proper placement of his manufactured home or recreation vehicle on the manufactured home stand and for proper installation of all utility connections.
- (c) Restrictions on Occupancy. A manufactured home or recreational vehicle shall not be occupied for dwelling purposes unless it is properly placed on a manufactured home stand and connected to water, sewer, electrical utilities, and other services that are required for the health and safety of the occupants.

**Sec. 2.317 Density Requirement**

No more than ten (10) manufactured home stands shall be situated per acre of unimproved land. Unimproved land means land upon which no roadways or sidewalks have been constructed as well as other types of improvements. In the enforcement of this density requirement and other space and distance requirements in this article, the more restrictive of the standards shall be applied in any situation to determine compliance with this section.

**Sec. 2.318 Fees**

Fees shall be determined by the city council and shall be shown in a fee schedule available at city hall.

**Sec. 2.319 Penalty for Violation of This Article**

A person found guilty of conduct made unlawful by this article shall, upon conviction, be deemed guilty of a Class C Misdemeanor and may be fined for each such violation. Each day that a separate violation of this article occurs shall be deemed a separate offense.

**Sec. 2.320**

All ordinances or parts of ordinances in conflict with this article are expressly repealed. Should any portion of this article be declared or unenforceable, the remainder of this article shall continue in full force and effect.

**Sec. 2.321**

In addition to the criminal sanctions provided in Section 2.319, the city may enforce this article by a lawsuit filed in a court of competent jurisdiction and it may seek to curtail violations of this article by temporary restraining order and/or temporary and permanent injunctions.

**ARTICLE 2.400 FAIR HOUSING**

**Sec. 2.401 Definitions**

For the purposes of this section the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words so used in the

present tense include the future, words in the masculine gender include the feminine, words in the plural number include the singular, and words in the singular number include the plural.

Discriminatory Housing Practice. Means an act that is unlawful under Sections 2.402, 2.403 and 2.404 of this article.

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

Family. Includes a single individual.

Person. Includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, fiduciaries, and any other organization or entity of whatever character.

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

#### **Sec. 2.402     Discrimination in the Sale of Rental of Housing**

- (a) Except as exempted by Section 2.405, it shall be unlawful for any person to:
- (1) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, sex, religion or national origin;
  - (2) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, sex, religion or national origin;
  - (3) Make, print, publish, or cause to be made, printed or published any notice, statement or advertisement regarding the sale or rental of a dwelling that indicates any preference, limitation or discrimination based on race, color, sex, religion or national origin, or an intention to make any such preference, limitation or discrimination;
  - (4) Represent to any person because of race, color, sex, religion or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available;
  - (5) For profit or with the hope or expectation of profit, induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or

prospective entry into the neighborhood of a person or persons of a race, color, sex, religion or national origin;

- (6) For profit or with the hope or expectation of profit to influence or attempt to influence, by any words, acts, or failure to act, any seller, purchaser, landlord or tenant of a dwelling to promote the maintenance of racially segregated housing or to retard, obstruct, or discourage racially integrated housing.

**Sec. 2.403 Discrimination in the Financing of Housing**

It shall be unlawful for any bank, building and loan association, insurance company or other corporation, association, firm or enterprise whose business consists in whole or in part of the making of commercial or residential real estate loans, to deny a loan or other financial assistance to a person applying therefor for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling; or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or other financial assistance, because of:

- (1) The race, color, sex, religion, or national origin of such person or of any person associated with him in connection with such loan or other financial assistance; or
- (2) The race, color, sex, religion, or national origin of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings for which such loan or other financial assistance is to be made or given.

**Sec. 2.404 Discrimination in the Provision of Brokerage Services**

It shall be unlawful for any person to deny access to or membership or participation in any multiple listing service, real estate brokers' organization or other service, organization or facility relating to the business of selling or renting dwellings, or to discriminate in the terms or conditions of such access, membership or participation, because of race, color, sex, religion or national origin.

**Sec. 2.405 Exemptions and Exclusions**

- (a) There shall be exempted from the application of Section 2.402 hereof all transaction involving:
  - (1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other if the owner maintains and occupies one of such units as his residence;
  - (2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental maintains and occupies the remainder of such dwelling as his residence and not more than four such rooms are offered.

- (3) The sale or rental of any single house by a private individual who owns such house, provided that:
- (A) The sale or rental is made without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesman, or of such facilities or services of any person in the business of selling or renting dwellings or of any employee or agent of any such broker, agent, salesman, or person; and
  - (B) The sale is made without the publication, posting or mailing of any advertisement or written notice in violation of Section 2.402(1) of this article (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title); and
  - (C) The owner does not own more than three single family houses at the time of the sale; and
  - (D) The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental of more than three such single-family houses at any one time.
  - (E) If the owner does not reside in the house at the time of sale or was not the most recent resident of said house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four-month period.
- (b) Nothing in this article shall prohibit a religious organization, association, or society or any non-profit institution or organization operated, supervised, or controlled by or in conjunction with a religious association, or society from limiting the sale, rental, or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, sex, or national origin.
- (c) Nothing in this article shall prohibit a bona fide private club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.
- (d) Nothing in this article shall bar any person from owning and operating a housing accommodation in which a room or rooms are leased, subleased or rented only to persons of the same sex, when such housing accommodation contains common lavatory, kitchen or similar facilities available for the use of all persons occupying such housing accommodation.

**Sec. 2.406 Fair Housing Administrator**

The mayor shall appoint, and council shall confirm a fair housing administrator (hereinafter referred to as "administrator"), who shall have the responsibility for implementing this article. The administrator may delegate his authority to investigate and conciliate complaints to other city employees under his direction.

**Sec. 2.407 Complaints**

- (a) Only the person who claims to have been injured by a discriminatory housing practice who believes he will be irrevocably injured by a discriminatory housing practice that has occurred or is occurring (hereafter referred to as "person aggrieved") may file a complaint with the administrator. Such complaints shall be in writing and shall identify the person alleged to have committed or alleged to be committing a discriminatory housing practice and shall state the facts upon which the allegations of a discriminatory housing practice are based. The administrator shall prepare complaint forms and furnish them without charge to any person, upon request.
- (b) If at any time the administrator shall receive or discover credible evidence and shall have probable cause to believe that any person or persons have committed or are committing a discriminatory housing practice as to which no complaint has been filed, the administrator may prepare and file a complaint upon his own motion and in his own name and such complaint shall thereafter be treated in the same manner as a complaint filed by a person aggrieved.
- (c) The administrator shall receive and accept notification and referral complaints from the U. S. Attorney General and the Secretary of Housing and Urban Development pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and shall treat such complaints hereunder in the same manner as complaints filed pursuant to paragraph (a) of this section.
- (d) All complaints shall be filed within sixty (60) days following the occurrence of an alleged discriminatory housing practice. Upon the filing or referral of any complaint, the administrator shall provide notice of the complaint by furnishing a copy of such complaint to the persons named therein who allegedly committed or were threatening to commit an alleged discriminatory housing practice. The accused may file an answer to the complaint within fifteen (15) days of receipt of the written complaint.
- (e) All complaints and answers shall be subscribed and sworn to before an officer authorized to administer oaths.

**Sec. 2.408 Investigation**

- (a) Upon the filing or referral of a complaint as herein provided, the administrator shall cause to be made a prompt and full investigation of the matter stated in the complaint.

- (b) During or after the investigation, but after the mailing of the notice of complaint, the administrator shall, if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this article. Nothing said or done during such informal endeavors may be made public by the administrator, by the complainant or by any other party to the proceedings without the written consent of all persons concerned.
- (c) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within thirty (30) days or the filing of the complaint with the administrator, if the efforts of the administrator to secure voluntary compliance have been unsuccessful, and if the administrator has made a determination that a discriminatory housing practice has in fact occurred, the administrator shall recommend to the city attorney that such violation be prosecuted in the municipal court of the City of Plum Grove. With such recommendation, the administrator shall refer his entire file to the city attorney. The city attorney shall, within thirty (30) days after such referral decide as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination or as soon thereafter as practicable.

**Sec. 2.409 Cumulative Legal Effect**

This article is cumulative in its legal effect and is not in lieu of all other legal remedies which the person aggrieved may pursue.

**Sec. 2.410 Unlawful Intimidation**

It shall be unlawful for any person to harass, threaten, harm, damage or otherwise penalize any individual, group or business because he or they have complied with the provisions of this article, because he or they have exercised his or their rights under this article, or enjoyed the benefits of this article, or because he or they have made a charge, testified or assisted in any manner in any investigation, or in any proceeding hereunder or have made any report to the administrator.

**Sec. 2.411 Cooperation with Secretary of Housing and Urban Development**

The administrator and the city attorney are authorized to cooperate with the Secretary of Housing & Urban Development and the U. S. Attorney General pursuant to the provisions of Title VIII, Fair Housing Act of 1968, Public Law 90-284, and may render such service to the secretary as they shall deem appropriate to further the policies of this article.

**Sec. 2.412 Education and Public Information**

To further the objectives of this article, the administrator may conduct educational and public information programs.

**Sec. 2.413 Penalty**

- (a) Any person, firm, or corporation violating any provision of this article shall be guilty of a misdemeanor, and upon conviction, shall be fined. Each day a violation continues after passage of seventy-five (75) days from date of the filing of the initial complaint with the administrator shall constitute a separate and distinct offense.
- (b) Any person, firm, or corporation violating any provision of this article may be enjoined by a suit filed by the city in a court of competent jurisdiction, and this remedy is in addition to any other penalty provisions.

**ARTICLE 2.500 PEDDLERS, SOLICITORS AND ITINERANT VENDORS**

**Sec. 2.501 Definitions**

For this article:

City-sponsored events. Sales of goods, wares, merchandise, publications, and/or exhibits and/or services by any person engaged in an open to the public function where the city is the host.

Open to the Public Function. Any function open to the public as where fifteen (15) or more vendors gather to sell or trade goods.

Peddler or Solicitor. Any person, partnership, firm or corporation going from house to house or from place to place, or from a truck or other vehicle on the streets of the city, or who rent, lease or occupy any room or space on a temporary basis of less than one (1) month in any building, structure or other enclosure, vacant lot or any other property whatever in the city, for the purpose of soliciting, exhibiting, selling, canvassing for or taking orders for, or offering to sell or take orders for, any goods, wares, merchandise, food, subscriptions to magazines, publications, newspapers, or photographs. Also, any person, partnership, firm or corporation who solicits orders and, as a separate transaction, makes deliveries to purchasers as a part of a scheme or design to evade these provisions shall be deemed a "peddler" or "solicitor." The terms "peddler" and "solicitor" shall also be synonymous with "itinerant merchant" or "transient vendor."

Person. A natural person, a corporation, a general or limited partnership, an association, or any other entity recognized by law.

Tax-Exempt Organization Sponsored Events. Sales of goods, wares, merchandise, publications, and/or exhibits and/or services by any person engaged in an open to the public function where a tax exempt (charitable, religious, educational or philanthropic) organization is the host.

**Sec. 2.502 Penalty**

Any person who violates any provision of this article shall be guilty of a class C misdemeanor, punishable up to the maximum allowed.

**Sec. 2.503 Exceptions**

The provisions of this article shall not apply to the following (except for sections 2.505, 2.506, and 2.508 of this article):

- (1) Sales of goods, wares, merchandise, publications and/or services by any tax-exempt (charitable, religious, educational or philanthropic) organization which has a reference certificate on file with the city secretary or when donated by owners or merchants of which the proceeds are to be used and applied to some charitable, religious, educational or philanthropic purposes;
- (2) Ordinary commercial travelers who sell or exhibit for sale goods, wares, merchandise, food, photographs, publications or services to firms, persons or corporations engaged in the business of buying, selling and dealing in the same;
- (3) Sale of milk, dairy products, bakery products, vegetables, poultry, eggs and other farm and garden products which have been raised or produced by the vendor;
- (4) Daily deliveries of milk, water and bakery and other food products or newspaper deliveries;
- (5) Insurance salesmen, real estate salesmen and other professionals licensed by the state;
- (6) City-sponsored event;
- (7) Tax-exempt organization sponsored event.

**Sec. 2.504 Consumer's Right to Cancel Transaction**

- (a) All peddlers or solicitors shall provide to the consumer in writing the right to cancel a solicitation transaction made in person or by telephone until midnight of the third business day after the day on which the consumer signs an agreement or offers to purchase any goods, wares, merchandise, food, photographs, publications or services.
- (b) It shall be unlawful for any peddler, solicitor or company represented to refuse to allow the customer to cancel the solicitation transaction.

**Sec. 2.505 Refusal to Leave Premises**

Any peddler or solicitor who enters upon premises owned or occupied by any person and willfully refuses to leave said premises after having been notified by the owner or tenant of said premises, or his agent, to leave the same shall be deemed guilty of a misdemeanor.

**Sec. 2.506 Entering Posted Premises**

It shall be unlawful for any peddler or solicitor to enter upon any private premises when the same is posted with a sign stating "no peddlers allowed" or "no solicitation allowed" or other words to such effect.

**Sec. 2.507 Hours of Operation**

It shall be unlawful for any peddler or solicitor to engage in the business of peddling or soliciting on any private property before 9:00 a.m. and after 4:00 p.m., except when the peddler has a specific invitation and appointment with the customer. This section does not apply to open to the public functions as defined in Section 2.501 of this article.

**Sec. 2.508 Operation in Right-of-Way**

It shall be unlawful for any person to engage in the business of peddling or soliciting in any rights-of-way within the city limits. This provision includes all open city rights-of-way and state rights-of-way.

**Sec. 2.509 Cleanup of Trash and Debris Near Vending Stands**

All trash or debris accumulating within thirty (30) feet of any vending stand shall be collected by the vendor and deposited in a trash container.

**Sec. 2.510 Permit Required**

It shall be unlawful for any person, partnership, firm or corporation to peddle, sell, solicit, exhibit or take orders for or offer to take orders for any goods, wares, merchandise, food subscriptions to magazines, publications, or newspapers, photographs or services without first having obtained a permit to do so from the city.

**Sec. 2.511 Application**

(a) Every person desiring to obtain a permit as required by this article shall make written application to the building official for a permit to do so not less than thirty (30) days prior to the date desired for soliciting, which application shall show the following for each person listed on the application:

- (1) The full name, permanent residential address, and post office address of the applicant.
- (2) The state, county, town or city in which the applicant permanently resides.

- (3) The applicant's date of birth, height, weight, color of hair, color of eyes, social security number and driver's license number, if existent.
  - (4) The occupation in which the applicant desires to engage and for which he desires a permit.
  - (5) A full and complete description of the goods, wares and merchandise or other articles or token which the applicant desires to sell, which description shall give in detail the grade and character of the property to be sold.
  - (6) Whether the applicant has ever been convicted of any felony or a misdemeanor involving theft, fraud, bribery, sexual offense or perjury.
  - (7) If a motor vehicle is to be used in the vending business, a description of the vehicle together with the motor vehicle registration number and the license number is required.
  - (8) A description of the proposed locations of the vending business and the length of time during which it is proposed that the business shall be conducted. There will be no vending business on any right-of-way within the city limits, either on city rights-of-way or state rights-of-way. The applicant must also provide written proof from the owner of the land where said applicant's display or stand is to be located, showing that said applicant is authorized by the owner to sell from such property. Such authorization must show the length of time such roadside vendor is authorized to be on the land of such owner.
  - (9) Each application must be accompanied by a copy of the applicant's state sales and use tax permit.
  - (10) Whether the applicant is engaged in interstate commerce.
- (b) In addition, there shall also be attached to each application for a permit the following:
- (1) A recent photographic likeness of the applicant's face.
  - (2) A certificate or letter from the president, vice-president, general manager, sales manager, assistant sales manager or district or area manager of the company for which the applicant works, sells or solicits, stating that the applicant is an employee and/or agent of such company.
  - (3) In the event that the applicant is an individual who is not working, selling, or soliciting for any firm or company, letters of recommendation from two (2) citizens of the applicant's permanent residence shall be submitted.
  - (4) In addition, the applicant shall authorize the city police department to perform a criminal background check on the applicant.

**Sec. 2.512 Issuance**

Upon the filing of an application for a permit under this article, it shall be the duty of the city building official to issue the permit as soon as it is reasonably possible upon completion of the investigation of the application, unless the city building official learns that the applicant has been convicted of a felony or a misdemeanor involving theft, fraud, bribery, sex offense, or perjury, in which case the permit will be denied.

**Sec. 2.513 Fee**

The building official shall collect a fee for the first person and a separate fee for each additional person listed on the permit application. Such fee shall be paid at the time of application. This fee shall be charged to help defray the cost of investigation and expenses incident to the issuing of said permit. This fee shall not be prorated nor refunded to the applicant regardless of whether a permit is issued or not. The fee amount shall be as established by city council from time to time.

**Sec. 2.514 Bond**

The application must also be accompanied by a bond in the sum of five thousand dollars (\$5,000.00) for each person engaged in working, selling or soliciting under this application, signed by the applicant and signed, as surety, by some surety company authorized to do business in the state, conditioned for the delivery of goods, wares, merchandise, food, subscriptions and services in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any purchaser or customer for any defects in material or workmanship that may exist in the article sold by the principal of such bond at the time of delivery and that may be discovered by such purchaser or customer within thirty (30) days after delivery or a certificate of liability insurance naming the city as a certificate holder in the sum of no less than \$300,000.00 with the description of operating reading for the delivery of goods, wares, merchandise, food, subscriptions and services in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify any purchaser or customer for any defects in material or workmanship that may exist in the article sold by the principal of such bond at the time of delivery and that may be discovered by such purchaser or customer within thirty (30) days after delivery of goods.

**Sec. 2.515 Display; Contents**

- (a) It shall be unlawful for any peddler or solicitor to do business within the city unless he always carries such permit on him. Every peddler or solicitor shall display his permit upon request or any person, and failure to so display such permit shall be grounds for revocation or constitute a violation of this section.
- (b) Each permit issued under this section shall contain the following:
  - (1) The name, address and date of birth of the applicant.
  - (2) A physical description of the applicant.

- (3) A photographic likeness furnished with the application.
- (4) The date the permit was issued.

**Sec. 2.516 Term**

All permits issued under this article shall be valid from the date shown thereon for a period of one (1) year or for the duration of the authorization from the landowner, whichever is the shorter period, unless the permit is sooner revoked as provided in this article.

**Sec. 2.517 Transfer**

No permit issued under this article shall be transferable or assignable nor give authority to more than one (1) person to engage in the business as a peddler or solicitor, but any person having obtained such permit may have one (1) or more persons to accompany him in conducting such business only if specified and described on the application.

**Sec. 2.518 Revocation**

- (a) If, after the permit as hereinbefore provided has been issued and the city finds that the permit was obtained by false representation in the application, or that the permit holder has committed any act or practice that violates V.T.C.A., Business and Commerce Code section 17.41 et seq., otherwise known as the Deceptive Trade Practices Consumer Protection Act, any act or practice which violates the Home Solicitation Sales Act (Texas Business and Commerce Code, chapter 601), the commission, during the term of the permit, of any crime or misdemeanor involving moral turpitude, or any violation of this article or any other city ordinance or state or federal law, such permit may be revoked. This includes, but is not limited to, fraud or misrepresentation in the application for the license, fraud or misrepresentation while conducting the business of vending, conducting the business of vending contrary to the conditions of the license, or conducting the business of vending in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.
- (b) Upon revocation, the city shall deliver written notice to the permit holder stating the action taken and the reasons supporting such action. The written notice shall be delivered to the permit holder's place of business or mailed to the permit holder's last known address.

**Sec. 2.519 Appeals**

If the applicant for a permit under this article or the holder of such a permit is dissatisfied with any holding or finding of the building official, he shall have the right to appeal to the city manager by filing a written notice of such appeal with the city secretary within ten (10) days from the making and filing of such decision of the city building official. Upon filing of such notice of appeal, the application for the permit and all papers possessed by the city building

official in connection with such application and such permit shall be delivered to the city manager, and such matters as may be in controversy shall be heard by the city manager.

**Sec. 2.520 Prohibition Against Sell of Used Goods and Merchandise**

No peddler or solicitor as described herein shall be allowed to sell or offer to sell any previously used goods or merchandise including but not limited to previously worn or used clothing, household items, books, furniture, toys, tires and/or appliances unless specifically authorized by the city manager or his designee.

**Sec. 2.521 Open to the Public Function Permitting**

Any individual or business hosting an open to the public function shall apply for a master permit for the event. In addition to the items listed in Section 2.712, the master permit application should also include an estimate of the number of vendors involved in the sale of goods, wares, merchandise, publications, and/or exhibits and/or services, and an estimate of the goods, wares, merchandise, publication, and/or exhibits and/or services provided at the event. The master permit holder will be responsible for all vendors and sells done under that permit. The master permit shall be present at the event and all vendors should know who holds it. During the event the master permit holder must maintain an accurate list of the vendors participating in the event. The master permit holder shall give the city access to the list of vendors at any time. The applicant applying for a master permit as the host of an open to the public function must comply with Section 2.715 of this article, and pay the same fees as other peddlers and solicitors applying for a permit under this article. The host of an open to the public function does not have to pay additional fees for each vendor at the event.

**ARTICLE 2.600 WRECKER SERVICES**

**Sec. 2.601 Definitions**

*Auto Wrecker.* Means any automobile, truck or other motor vehicle used for towing, carrying, pushing or otherwise transporting any motor vehicle or other object which has been wrecked or disabled in any manner. The term “auto wrecker” shall not include a service car or other motor vehicle not equipped with mechanical devices for transporting wrecked or disabled vehicles or objects. If any vehicle, although not equipped with devices primarily used for towing wrecked or disabled vehicles, is used for such purposes through means of ropes, chains or otherwise, the same shall be considered an “auto wrecker.”

*Owner.* Means any person engaged for hire in the business of towing, carrying, pushing or otherwise transporting any motor vehicle or other object with an auto wrecker, whether such person owns title to the auto wrecker or engages in such business under some contractual or other arrangement.

*Person.* Means a natural person, a corporation, a general or limited partnership or any other entity recognized in law.

Wrecker Driver. Means any person who operates any auto wrecker on the public streets or highways of the City of Plum Grove, either for himself or in the employment or under contract for another person.

**Sec. 2.602 Unlawful to Operate Wrecker Without Wrecker Permit**

- (a) It shall be unlawful for an owner to drive or operate or cause to be driven or operated by a wrecker driver any auto wrecker upon any public street or highway in the city for towing or hauling wrecked or disabled vehicles or other objects without first having obtained a wrecker permit from the city. It shall be unlawful for a wrecker driver to operate an auto wrecker not permitted under this article. This article shall apply only to auto wreckers that originate their tow of a motor vehicle or other object within the corporate limits of the city or when the tow call is originated through the city police department. In a situation where an auto wrecker bears multiple company names, the chief of police shall examine the auto wrecker's registration, insurance, subcontract agreement documents, if any, and the Texas Secretary of State's listing for businesses licensed to do business in the state. This examination shall determine the name of the principal company operating said auto wrecker. In turn, this is the name that will be reflected on the city auto wrecker permit and the name that will be placed in the city police department's rotation list.
- (b) No single auto wrecker company shall be allowed to hold more than one (1) city wrecker permit and no permit shall be issued to any owner, operator or subcontractor whose auto wrecker unit does not bear the true and correct identification of said auto wrecker or who fails to comply with the requirements of this article, as determined by the city's police chief.

**Sec. 2.603 Application Regulations**

All applications for wrecker permits shall be completed by the owner at the city hall of the City of Plum Grove and shall state the following in the application:

- (1) The name and address of the owner of the auto wrecker, and the name of the business.
- (2) The number of auto wreckers the owner desires to operate, listing the make, model, motor number and correct state license number of each auto wrecker.
- (3) The true ownership of each auto wrecker, and if not owned by the applicant, the name and address of the true owner shall be given. If the auto wrecker is operated under the terms of a contract with some other person, a copy of the contract shall also be attached.
- (4) A statement that the applicant will obey the provisions of this article, and, that upon failure to do so, this permit may be revoked following investigation, notice and hearing.

- (5) The location of the storage facility where all damaged, inoperative and abandoned vehicles will be taken for safe keeping by the applicant. A statement that the storage facility is enclosed, lighted or guarded in such manner as to provide a secure premises for the storage of damaged, inoperative or abandoned vehicles, and provides proof of coverage by insurance of such storage facility as provided in Section 2.608 of this article.
- (6) Proof of insurance coverage in limits of not less than the following sums shall be required and provided to-wit:
  - (A) Bodily injury liability: one hundred thousand dollars (\$100,000.00) per person / three hundred thousand dollars (\$300,000.00) per accident.
  - (B) Property damage liability: twenty-five thousand dollars (\$25,000.00) per accident.
- (7) The application shall state the names, driver license numbers, addresses and telephone numbers of those persons who will operate applicant's auto wreckers and have access to the storage area used by applicant.
- (8) A statement of applicant's fees for towing and storage.
- (9) The chief of the Plum Grove Police Department, or his duly authorized deputy or assistant, shall inspect each auto wrecker to be operated within the corporate limits of the city and determine that the auto wrecker complies with the following minimum requirements:
  - (A) Each auto wrecker shall not be less than one ton in size.
  - (B) Each auto wrecker shall be equipped with a power take-off winch, winch line and a boom with a factory rated capacity of not less than five thousand (5,000) pounds single capacity.
  - (C) Each auto wrecker shall carry as standard equipment a tow bar, safety chains, fire extinguisher, dollies, wrecking bar, emergency light bar, broom ax, shovel, flags and flares.
  - (D) Each auto wrecker shall have inscribed on each side thereof in letters not less than three (3") inches in height the name and address of the owner.
  - (E) Each auto wrecker shall be radio equipped for communication with City of Plum Grove Police Department.
- (10) The permit fee for each auto wrecker shall be as provided for in the fee schedule found in the appendix of this code and shall be paid before a permit is issued. All

auto wrecker permits issued after January 1, 1986, shall expire on December 31 of the year in which issued.

- (11) A permit shall be carried on each auto wrecker and shall be shown upon demand to police officers of the City of Plum Grove.
- (12) The permit shall be issued by the city secretary after compliance with all provisions hereof, including approval of the police chief. All permits are non-transferable.

**Sec. 2.604     **Summoning Wrecker by Police****

- (a) Establishment of Call Rotation Schedule of Permitted Wreckers. The police department shall establish a rotation schedule of permitted wrecker companies to call according to subsections (b) and (d) of this section, or when circumstances justify the immediate need to address traffic safety and control.
- (b) Wreckers Designated by Rotation Schedule. When a police officer determines that any vehicle which has been involved in a collision or accident, or is otherwise disabled or abandoned upon a public street, and is unable to proceed safely under its own power, or the owner or operator of the vehicle is unable, unwilling or unavailable to designate the wrecker company that such owner or operator desires to remove the vehicle, or where circumstances justify, in the judgment and discretion of the police officer, due to the immediate need to address traffic safety and control, the police officer shall instruct the police dispatcher to call a permitted wrecker company in accordance with the rotation schedule established
- (c) Wreckers Designated by Owner or Operator. When a police officer determines that any vehicle which has been involved in a collision or accident, or is otherwise disabled upon a public street and is unable to proceed safely under its own power, or when the owner or operator of the vehicle is physically unable to drive such vehicle, the officer shall request the owner or operator to designate the permitted wrecker company that such owner or operator desires to remove the vehicle. When the owner or operator of the vehicle has designated a desired wrecker company, the police officer shall communicate that fact immediately to the police dispatcher, and the dispatcher receiving such information shall call the designated wrecker company provided the designated wrecker company holds a valid permit to operate within the city.
- (d) Failure of Called Wrecker to Respond. If a wrecker company, whether designated by the owner or operator of the vehicle or designated from the rotation schedule established above, fails to respond within twenty minutes, the police officer may request the dispatcher to call the next permitted wrecker service on the rotation schedule.
- (e) Soliciting at Accident Scenes by Wreckers Prohibited. At no time shall a wrecker company be on a collision or accident scene unless they have been called by the police

department or are rendering emergency aid to victims. Soliciting of accident victims at the scene of a collision or accident by wrecker companies is prohibited.

- (f) Emergency Use of Unpermitted Wreckers. The police chief or his designee may exercise discretion to call unpermitted wreckers when traffic safety and control requires it, or specialized or heavy-duty wrecker service is required and not available on the permitted wrecker rotation schedule.
- (g) Rates and Allowable Fees for Wrecker Services Coming Through the Police Department's Rotation List. The rates and fees as provided for in the fee schedule found in the appendix of this code shall be allowed for wrecker services that originate through the city's police department rotation list. Wrecker services originating from any source other than the police department's rotation list or services originating from specific instructions by a citizen to the police department will not be the beneficiary of the rates that are herein shown. Wrecker services originating from any source other than the subject rotation list will be subject to market charges as dictated by the wrecker service provider. Rates and fees for wrecker services involving super-sized wrecker equipment and commercial trucks (18-wheel rigs) are exempted from this section. Accordingly, services for this type of pull will be subject to market charges as dictated by the wrecker service provider.

#### **Sec. 2.605 Wrecker Responsible for Disposing of Debris at Wreck Site**

Each auto wrecker called to the scene of an accident or vehicle removal shall completely remove from the street or highway all resulting wreckage and debris, including broken glass, before leaving the site, and shall properly dispose of such debris and wreckage.

#### **Sec. 2.606 No Inoperative Motor Vehicle shall be Removed from Site Before Notifying Plum Grove Police Department**

No wrecked, damaged or inoperative motor vehicle or other object shall be removed from the scene by an auto wrecker without prior notification to the police department of the City of Plum Grove.

#### **Sec. 2.607 Suspension of Auto Wrecker Permit**

The police chief of the City of Plum Grove may, subject to the approval of the city manager, and after an administrative hearing, suspend an auto wrecker permit issued to a person on any or all auto wreckers belonging to such person for a period of thirty (30) days for violation of any of the provisions of this article. Any person whose permit has been suspended may file an appeal to the city council, and the city council shall have authority upon the hearing of the appeal to reverse, vacate or modify the suspension.

**Sec. 2.608 Storage Facility for Towed Vehicles**

- (a) Insurance. A storage facility shall not be used for towed, wrecked or disabled vehicles unless the operator of such facility has garage keeper's legal liability insurance, as required by the administrative rules of the Texas Department of Licensing and Regulation, 16 Texas Administrative Code, Chapter 85, Section 85.400, to cover motor vehicles or other objects towed, carried or transported and stored at such facility for damage due to fire, explosion, theft, vandalism and collision. A certificate of insurance coverage by such storage operator shall be provided by each applicant for a permit under Section 2.603 of this article.
  
- (b) Storage Facility Location. All vehicles towed, transported or carried shall be stored in a facility within one (1) mile of the city limits, unless the towing company waives any per mileage or other charge that would increase the cost of the nonconsent tow to the owner or operator of the vehicle. The towing company shall maintain a storage facility as required in this section within fifteen (15) miles of the city for the convenience of the owners or operators of the towed vehicle. No storage facility may be located within the fire zone as described in Article 2.200, Section 2.202 of this code.

**Sec. 2.609 Violation**

Any person violating a provision of this article shall, upon conviction, be guilty of a Class C misdemeanor and shall be punished by a fine. Each day a violation of this article occurs shall be deemed a separate offense.

**ARTICLE 2.700 SEXUALLY ORIENTED BUSINESSES**

**Sec. 2.701 Definitions**

As used in this article, the following terms shall apply:

Sexually Oriented Commercial Enterprise, or Enterprise. An adult cabaret, adult encounter parlor, adult modeling studio, or any establishment (including massage parlors) whose business may include the offering to customers of a product or service which is intended to provide sexual stimulation or sexual gratification to such 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." Except as specifically provided otherwise herein, nothing in this article is intended to regulate:

- (1) Any adult bookstore, adult movie theater or business licensed to sell alcoholic beverages (except that location regulations as provided herein shall expressly extend to an enterprise selling alcoholic beverages);
  
- (2) 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;

- (3) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts; or,
- (4) Any retail establishment whose major business is of the offering of wearing apparel for sale to customers.

Adult Bookstore. An establishment whose major business is the offering to customers of books, magazines, films or videotapes (whether for viewing off premises or on premises by use of motion picture machines or other image producing devices), periodicals, or other printed or pictorial materials which are intended to provide sexual stimulation or sexual gratification to such customers, and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities,” or “specified anatomical areas.”

Adult Cabaret. An establishment whose major business is the offering to customers of live entertainment which is intended to provide sexual stimulation or sexual gratification to such customers, and which is distinguished by or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities,” or “specific anatomical areas.”

Adult Encounter Parlor. An establishment whose major business is the provision of premises where customers either congregate, associate, or consort with employees who engage in “specified sexual activities” with or in the presence of such customers, or who display “specified anatomical areas” in the presence of such customers, with the intent of providing sexual stimulation or sexual gratification to such customers.

Adult Modeling Studio. An establishment whose business is the provision, to customers, of figure models who are so provided with the intent of providing sexual stimulation or sexual gratification to such customers and who engage in “specified sexual activities” or display “specified anatomical areas” while being observed, painted, painted upon, sketched, drawn, sculptured, photographed, or otherwise depicted by such customers.

Adult Movie Theater. An establishment, containing a room with tiers or rows of seats facing a screen, or projection area, whose business is the exhibition to customers of motion pictures which are intended to provide sexual stimulation or sexual gratification to such customers and which are distinguished by or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas.”

Advertise. To seek the attraction of or direct the attention of the public to any goods, service or merchandise whatsoever.

Church or Place of Worship. A building in which persons regularly assemble for religious worship, intended primarily for purposes connected with such worship, or for propagating a form of religious belief.

Commercial Enterprise. An establishment owned or operated by any entity, which invites customers onto its premises and which is operated for profit.

Commercial Multi-Unit Center. A building or structure (including a shopping mall or strip shopping center) containing three (3) or more commercial enterprises, each of which occupies an enclosed area having its own door or entranceway opening onto public property, a public way, or a common area.

Customer. Any person who:

- (1) Is allowed to enter an establishment in return for the payment of an admission fee or any form of consideration or gratuity; or
  - (2) Enters an establishment to purchasing or renting a commodity or service therein;
- or
- (3) Is a member of and on the premises of a private club operating under the provisions of this article.

Display Surface. The entire surface of a sign, on one side, devoted to exhibiting advertising. The display surface shall not include the sign frame and incidental supports thereto.

Employee. Any person who renders any service whatsoever to the customers of an establishment regulated by this article or who works in or about such an establishment and who receives compensation for such service or work from the operator or owner of such establishment or from the customers therein.

Entertainment. Any act or performance such as a play, skit, reading, revue, pantomime, scene, song, dance, musical rendition or striptease, whether performed by employees or customers. The term "entertainment" shall also mean bartenders, waiters, waitresses, or other employees exposing "specific anatomical areas" or engaging in "specified sexual activities" in the presence of others.

Existing. In operation on the effective date of this article.

Exterior Portion. Any part of the physical structure of an establishment regulated by this article including a wall, veneer, door, fence, roof, roof covering, or window, which is visible from any public way or public property.

Massage. Shall mean and include any process consisting of kneading, rubbing or otherwise manipulating the skin of a human being either with the hand or by means of electrical instruments or apparatus or other special apparatus, but shall not include massage by duly licensed physicians nor massage of the face practiced by duly licensed beauty parlors or barber shops.

Massage Establishment. Is any building, room, place or establishment other than a regularly licensed hospital where manipulative massage or manipulative exercises are practiced upon the human body for compensation by anyone not a duly licensed physician whether with or without the use of mechanical therapeutic or bathing devices and such term shall include Turkish bath

houses. This term shall not include, however, beauty parlors or barber shops duly licensed under state law.

Operator. The manager or other person principally in charge of an establishment regulated by this article.

Residential. Pertaining to the use of land for premises such as homes, townhomes, patio homes, mobile homes, duplexes, condominiums and apartment complexes, which contain habitable rooms for nontransient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein. Hotels, motels, boarding houses, nursing homes, hospitals, nursery schools and child day care facilities shall not be residential.

School. A building where persons regularly assemble for instruction or education together with the playgrounds, stadiums and other structures or grounds used in conjunction therewith and is limited to public and private schools used for primary and secondary education.

Sign. Any display, design, pictorial, or other representation, which shall be so constructed, placed, attached, painted, erected, fastened or manufactured in any manner whatsoever so that the same is visible from the outside of an establishment regulated by this article and is used for advertising such establishment. The term "sign" shall also include such representations painted on or otherwise affixed to any exterior portion of an establishment regulated by this article as well as such representations painted on or otherwise affixed to any part of the tract upon which such an establishment is situated.

Specified Anatomical Areas.

- (1) Less than completely and opaquely covered:
  - (A) Human genitals, pubic region or pubic hair; or
  - (B) Buttock; or
  - (C) Female breast below a point immediately above the top of the areola.
- (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: or
- (2) Acts of human masturbation, sexual intercourse or sodomy; or
- (3) Fondling or other erotic touching of genitals, pubic region or pubic hair, buttock or female breast.

*Tract.* An area of land in the possession of an owner which is graphically depicted on the official plats of the City of Plum Grove tax department.

**Sec. 2.702 Permit Required**

It shall be unlawful for any person or entity to own or operate a sexually oriented commercial enterprise located within the corporate limits of the City of Plum Grove without a permit issued pursuant to the provisions of this article.

**Sec. 2.703 Permit Application**

- (a) Application for a permit for a sexually oriented commercial enterprise must be submitted to the city secretary by the owner of the enterprise to be covered by the permit. The application forms shall be supplied by the city. The applicant shall be required to give the following information on the application form:
    - (1) (A) If the applicant is an individual, his legal name as well as any aliases;
    - (B) If the applicant is a partnership, the full name of the partnership and the names of all the partners, whether general or limited;
    - (C) If the applicant is a corporation, the exact corporate name and state of incorporation and the names of the officers, directors, and stockholders holding ten (10) percent or more of the capital stock of the applicant.
  - (2) The name under which the enterprise is to be operated and a general description of the service to be provided;
  - (3) The telephone number of the enterprise;
  - (4) The address, and legal description of the parcel of land on which the enterprise is to be located;
  - (5) The date on which the applicant became owner of the enterprise for which a permit is sought, and the date on which the enterprise began operations at the location for which a permit is sought.
- (b) The application shall be accompanied by the following:
- (1) Payment in full of the permit fee;
  - (2) A certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (Texas Revised Civil Statutes Annotated, Business and Commerce Code, Chapter 36) if the applicant is to operate the enterprise under an assumed name;

- (3) If applicant is a Texas corporation, a certified copy of the articles of incorporation together with all amendments thereto;
  - (4) If applicant is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
  - (5) If applicant is a limited partnership formed under the laws of Texas, a certified copy of the certificate of limited partnership, together with all amendments thereto, filed in the office of the Secretary of State under the Texas Limited Partnership Act (Article 6132a Vernon's Texas Civil Statutes).
- (c) The application shall contain a written declaration that:
- (1) The information contained therein is true and correct; and
  - (2) The applicant has read the provisions of this article and follows them.
- (d) If the applicant is an individual, the application shall be signed and verified by the applicant. If the applicant is a partnership, the application shall be signed and verified by all partners thereof. If the application is a corporation or other entity, the application shall be signed and verified by the president of such corporation or entity.

**Sec. 2.704 Permit Fee**

To delay the actual cost of processing the permit application, the permit fee shall be as provided for in the fee schedule found in the appendix of this code. No portion of any fee collected under this article shall be returned after a permit has been issued or refused. Each permit shall be effective when issued and shall be renewable annually on the date of such issuance by filing an application as provided in Section 2.703.

**Sec. 2.705 Issuance or Denial of Permit**

- (a) Within twenty (20) days of receipt of the application, the city secretary shall inform the applicant as to whether he is eligible for a permit.
- (b) The city shall issue a permit to the applicant unless one or more of the following conditions exist:
  - (1) The applicant's enterprise is located within seven hundred fifty (750) feet of any school, or church or place of worship. For purposes of this subsection, measurement shall be made in a straight line, without regard to intervening structures or objects, from the property line of the applicant's sexually oriented commercial enterprise to the nearest property line of such school, or church or place of worship.

- (2) The applicant's enterprise is located within seven hundred fifty (750) feet of any other sexually oriented commercial enterprise. For purposes of this subsection, measurements shall be made in a straight line, without regard to intervening structures or objects, from the property line of the applicant's sexually oriented commercial enterprise to the nearest property line of another sexually oriented commercial enterprise.
  - (3) Seventy-five (75%) percent or more of the tracts within a circular area, as described herein, are residential in character. The radius of such circular area shall be 1,000.0 feet, and the center of such circular area shall correspond to the midpoint of a line joining the two (2) most distant points on the boundary of the tract on which the enterprise is located.
  - (4) The applicant failed to supply all the information requested on the application.
  - (5) The applicant knowingly gave false, fraudulent or untruthful information on the application.
  - (6) The applicant's enterprise is not in compliance with Section 2.709 and Section 2.710 of this article.
  - (7) The applicant does not meet any other requirements of this article.
- (c) In the event that the city secretary determines that an applicant is not eligible for a permit, the applicant shall be notified in writing of the reasons for a denial. If an applicant desires to challenge such denial, he shall be entitled to a hearing before the city council so long as a written request for such a hearing is filed with the city secretary within ten (10) days after the receipt of the notification of such denial. The applicant's written request for a hearing shall set out the grounds on which the denial is challenged.
  - (d) The city council shall hold a hearing and render a written decision within thirty (30) days after receipt of the applicant's written request for a hearing. Each party shall have the right to representation by a licensed attorney, although an attorney is not required. Each part may present witnesses on its own behalf and may cross-examine all witnesses.

**Sec. 2.706 Existing Enterprises**

- (a) The provisions of this article shall be applicable to existing enterprises.
- (b) If an enterprise is ineligible to receive a permit under this article, then such enterprise shall terminate operations within thirty (30) days after the date on which the applicant for such enterprise receives from the city secretary notification of such ineligibility.

**Sec. 2.707 Revocation of Permit**

- (a) The city secretary shall have the authority to revoke a permit for one or more of the following reasons:
  - (1) The owner or operator of the permitted enterprise knowingly allowed a person under seventeen (17) years of age to be an employee therein or did not make a reasonable effort to determine the true age of such employee;
  - (2) The permitted enterprise does not conform to the provisions of Section 2.709 and Section 2.710 of this article;
  - (3) Three (3) or more persons have been adjudged guilty in a trial court of committing on the premises of the permitted enterprise any of the offenses contained in Chapter 21, Chapter 43, Section 22.011, or Section 22.021 of the Texas Penal Code; said offenses must have occurred subsequent to the date of the issuance of the permit or subsequent to the most recent date of renewal thereof, whichever is later, and the owner or operator knowingly allowed such offenses to occur or did not make a reasonable effort to prevent the occurrence of such offenses;
  - (4) The owner of the permitted enterprise knowingly gave false, fraudulent or untruthful information on the application form for such permit.
- (b) The owner whose permit is to be revoked shall be given at least ten (10) calendar days' written notice of such revocation. If such owner desires to challenge such revocation he shall be entitled to a hearing and subsequent appeal as provided in Section 2.705 herein, and the written request for a hearing shall be filed with the city secretary within ten (10) days after receipt of the notification of such revocation.

**Sec. 2.708 Other Permit Provisions**

- (a) A permit issued under this article shall always be displayed in an open and conspicuous place on the premises of the enterprise for which it was issued
- (b) Any permit issued pursuant to this article is valid only at the location for which it is issued, and such permit is neither assignable nor transferable.
- (c) It shall be unlawful for any person to counterfeit, forge, change, deface, or alter a permit.

**Sec. 2.709 Exterior Portions of Enterprises, Adult Bookstores, Adult Movie Theaters and Massage Establishments**

- (a) It shall be unlawful for the merchandise or activities of a sexually oriented commercial enterprise, adult bookstore, adult movie theater, or massage establishment to be visible from any point outside such establishment.

- (b) It shall be unlawful for the exterior portions of an enterprise, adult bookstore, adult movie theater, or massage establishment to have flashing lights, or any words, lettering, photographs, silhouettes, drawings, or pictorial representations of any manner except to the extent permitted by the provisions of this article.
- (c) It shall be unlawful for the exterior portions of an enterprise, adult bookstore, adult movie theater, or massage establishment to be painted any color other than a single neutral color. This provision shall not apply to any enterprise, adult bookstore, adult movie theater or massage establishment if the following conditions are met:
  - (1) The enterprise, adult bookstore, adult movie theater, or massage establishment is a part of a commercial multi-unit center; and
  - (2) The exterior portions of each individual unit in the commercial multi-unit center, including the exterior portions of such enterprise, adult bookstore, adult movie theater, or massage establishment are painted the same color as one another or are painted in such a way so to be a component of the overall architectural style or pattern of the commercial multi-unit center.
- (d) Nothing in this section shall be construed to require the painting of an otherwise unpainted exterior portion of an enterprise, adult bookstore, adult movie theater, or massage establishment.
- (e) All nonconforming exterior portions of an existing enterprise, adult bookstore, adult movie theater, or massage establishment shall be made to comply with the provisions of this article within six (6) months after the effective date of this article.

**Sec. 2.710 Signage**

- (a) Notwithstanding any city ordinance, code, or regulation to the contrary, it shall be unlawful for the permittee of an enterprise, the owner of an enterprise licensed to sell alcoholic beverage, the owner of an adult bookstore, the owner of an adult movie theater, or the licensee of a massage establishment to erect, construct, or maintain any sign for such establishment other than one "primary sign" and one "secondary sign" as provided herein.
- (b) Primary signs shall have no more than two (2) display surfaces. Each display surface shall:
  - (1) Not contain any flashing lights;
  - (2) Be a flat plane, rectangular;
  - (3) Not exceed 75.0 square feet in area; and
  - (4) Not exceed 10.0 feet in height and 10.0 feet in length.

- (c) Primary signs shall 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 bookstore
    - (B) Adult movie theater
    - (C) Adult encounter parlor
    - (D) Adult cabaret
    - (E) Adult novelties
    - (F) Adult entertainment
    - (G) Massage establishment

Primary signs for adult movie theaters may contain the additional phrase, "Movie Titles Posted on Premises".

- (d) Each letter forming a word on a primary sign shall be of a solid color, and each such letter shall be the same print-type, size, and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- (e) Secondary signs shall have only one (1) display surface. Such display surface shall:
  - (1) Be a flat plane, rectangular;
  - (2) Not exceed 20.0 square feet in area;
  - (3) Not exceed 5.0 feet in height and 4.0 feet in width; and
  - (4) Be affixed or attached to any wall or door of the establishment.
- (f) The provision of the above subsections shall not apply to the secondary signs.
- (g) In case of a conflict between the provisions of this article and the provisions of the Southern Building Code the provisions of this article shall govern.
- (h) Nothing herein shall be construed to prohibit the display of the following types of signs:
  - (1) Legal notices and street number;

- (2) A sign not over 40.0 square feet in area setting forth information concerning a building or other structure under repair or construction or advertising the sale or rental of the premises;
- (3) Signs required by federal, state or local laws; or
- (4) Signs setting for the location of or directions to parking or buildings or regulating the flow of traffic.

**Sec. 2.711 Persons Younger than Seventeen (17) Prohibited from Entry; Attendant Required**

- (a) It shall be unlawful to allow a person who is younger than seventeen (17) years of age to enter a sexually oriented commercial enterprise, an adult bookstore, an adult movie theater, or a massage establishment for being a customer therein.
- (b) An attendant shall be stationed at each public entrance to an establishment described in Section 2.711 (a) above during such establishment's regular business hours. The attendant shall not allow a person to enter for being a customer until such person presents to the attendant:
  - (1) A valid operator's, commercial operator's or chauffeur's driver's license; or
  - (2) A valid personal identification certificate issued by the Texas Department of Public Safety reflecting that such person is seventeen (17) years of age or older, provided that no such driver's license or identification certificate shall be required if it is apparent beyond a reasonable doubt that such person is seventeen (17) years of age or older.

**Sec. 2.712 Persons Younger than Seventeen (17) Prohibited from Employment**

It shall be unlawful to allow a person who is younger than seventeen (17) years of age to be an employee of a sexually oriented commercial enterprise, an adult bookstore, an adult movie theater, or a massage establishment.

**Sec. 2.713 Lawfully Permitted Enterprise not Rendered Lawful**

Any lawfully permitted enterprise shall not become unlawful or ineligible for a renewal of its permit claiming, after the grant or renewal of such permit:

- (1) A school, or a church or place of worship, has located within 750.0 feet of such lawfully permitted enterprise; or
- (2) Seventy-five (75%) percent or more of the tracts of land within the circular area described in Section 2.705 (b)(3) herein become residential in character. This provision shall apply only in the case of renewal of a valid permit and shall not

apply when an application for a permit for an enterprise is submitted after the permit of such enterprise has expired or has been revoked.

**Sec. 2.714 Public Display to Minors Law**

Sale or exhibition to minors of indecent publications, pictures or articles. It shall be unlawful to willfully or knowingly engage in the business of selling, lending, giving away, showing advertising for sale or distributing to any person under the age of seventeen (17) years or have in possession with intent to engage in said business or to otherwise offer for sale or commercial distribution to any individual under the age of seventeen (17) years or display at newsstands or any other business establishment frequent by minors under the age of seventeen (17) or where said minors are or may be invited as a part of the general public, any motion picture or live show, or any still picture or photograph or any book, pocket book, pamphlet or magazine the cover or content of which exploits, is devoted to, or is principally made up of descriptions or depictions of illicit sex or sexual immorality or which is lewd, lascivious or indecent or which consists of pictures of nude or partially denuded figures posed or presented in a manner to provoke or arouse lust or passion or to exploit sex, lust or perversion for commercial gain or any article or instrument of indecent or immoral use.

**Sec. 2.715 Notices**

All notices required or permitted hereunder shall be in writing and shall be deemed delivered three (3) days after depositing in a United States Postal Service post office receptacle.

**Sec. 2.716 Violation Deemed Misdemeanor; Continuing Violations**

Violation of any of these regulations is a Class B misdemeanor. Each day any violation of this article occurs shall constitute a separate offense. Upon conviction for a violation, punishment shall be assessed as provided by law for a Class B misdemeanor.

**Sec. 2.717 Enforcement; Authority to Enter Premises**

The chief of police shall have the power to administer and enforce the provisions of this article. Upon presentation of proper identification to the owner, operator, agent or tenant in charge of any premises where a sexually oriented commercial enterprise or massage establishment is located, the chief of police or his representative may enter, for the purposes of inspecting and investigating to ensure compliance with the terms of this article, any building, structure or other premises where an enterprise or massage establishment is located. Whenever the chief of police or his representative is denied permission to inspect any premises, inspection shall be made only under the authority of a warrant, to be issued by a magistrate authorizing the inspection for violations of this article. In applying for such a warrant, the chief of police shall submit an affidavit to the magistrate setting forth his belief that a violation of this article exists with respect to the premises sought to be inspected and the reasons for such belief. The affidavit shall designate the location of such premises and the name of the person believed to be the owner, operator or occupant thereof. If the magistrate finds that probable cause exists for a search of the premises, such warrant describing the premises with enough certainty to identify the same. Any

warrant so issued shall constitute authority for the chief of police or his representative to enter upon and inspect the premises described therein.

**Sec. 2.718 Authority to File Suit**

The city attorney is hereby authorized to file suit to enjoin the violation of any regulations of this article.

**ARTICLE 2.800 AMBULANCE SERVICES**

Fees for ambulance services shall be as provided for in the fee schedule found in the appendix of this code. (Ordinance adopting Code)

**ARTICLE 2.900 RIGHT-OF-WAY USE BY TELECOMMUNICATIONS PROVIDERS**

**Sec. 2.901 Purpose**

The purposes of this article are to:

- (1) Provide for the management and governing of the city's public rights-of-way in connection with their use for telecommunications purposes pursuant to this article; and
- (2) Provide compensation to the city from telecommunications service providers for their use and occupancy of the city's public rights-of-way.

**Sec. 2.902 Definitions**

The following terms, including their singulars, plurals and possessives, shall have the definitions provided in this article unless the context clearly indicates otherwise.

Access Line.

- (1) Each switched transmission path of the transmission media within the city's public rights-of-way extended to the end-user customer's premises network interface within the city that allows delivery of telecommunications service;
- (2) 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; and
- (3) Each termination points of a non-switched telephone 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.

Cable Service. “Cable service” as defined in the “Cable Communications Policy Act of 1984”, as amended.

City. The City of Plum Grove, Texas.

City Council. The city council of the City of Plum Grove, Texas.

Direction of the City. The lawful ordinances, rules, resolutions, and regulations of the city that are not inconsistent with this article, whether now in force or hereafter adopted.

Facilities. All the duct spaces, manholes, poles, conduits, underground and overhead passageways, and other equipment, structures and appurtenances and all associated transmission media used to provide telecommunications service.

Line Fee. A monthly fee to be applied to each access line for the calculation of the total amount to be paid to the city as compensation for public rights-of-way use.

Permit Holder. Any telecommunications service provider issued or granted a permit under this article.

Person. A natural person (an individual), corporation, company, association, partnership, firm, limited liability company, joint venture, joint stock company or association or any other entity recognized by law. Such word shall not include the city.

Public Utility. “Public Utility” as the term is defined in the Public Utility Regulatory Act of 1995, Tex. Utilities Code Ann. §11.004.

Public Right-of-Way. The area on, below, or above a public roadway, highway, street, public sidewalk, alley, or utility easement in which the municipality has an interest. The term does not include the airwaves above a right-of-way regarding wireless telecommunications. Nothing in this article shall be construed as the city's authorizing the use by a telecommunications service provider of any public right-of-way exceeding the scope, right or authority of the city's rights in and to any such rights-of-way.

Right-of-Way Fee. The total amount paid to the city on a quarterly basis for the use and occupancy of the public rights-of-way.

Telecommunications Service. The transmittal of voice, data, image, graphics, and other communications between or among points by wire, fiber optics, or other similar facilities, as well as the rental, lease, or furnishing of the facilities to accomplish such transmittal, but does not include transmissions for long distance purposes (interLATA and intraLATA) or any “wireless service” as defined by law.

Telecommunications Service Provider. A person who has been issued a certificate of convenience and necessity, certificate of operating authority, or service provider certificate of operating authority to offer local exchange telephone service.

Telecommunications Utility. “Telecommunications utility” as used in the Public Utility Regulatory Act of 1995, Tex. Utilities Code Ann. §51.002(11).

Transmission Media. All the cables, fibers, wires or other physical devices owned, maintained or placed by a permit holder to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, data or other purposes unless expressly prohibited by this article.

Use and Occupancy. A permit holder's acquisition, installation, construction, reconstruction, maintenance, repair, control, or operation of facilities within the city's public rights-of-way pursuant to this article.

### **Sec. 2.903 Requirement for Permit and Granting Clause**

Any person who owns, places, or maintains facilities within the city's public rights-of-way shall first obtain a permit from the city. The city shall issue permits to telecommunications service providers for regulating the use and occupancy of the public rights-of-way for access lines. By acceptance of the permit, a permit holder shall acknowledge its legal obligation to abide by the terms of this article. The city shall, by subsequent ordinance or resolution, provide the format and directions for the submission of permit applications.

### **Sec. 2.904 General Terms of the Article**

- (a) Notwithstanding the enactment of this article, the city shall have the power to grant franchises, licenses, easements, or permits, to use the city's public rights-of-way to any person as the city, in its sole discretion, may determine to be in the public interest.
- (b) A permit holder shall not be authorized to provide cable service under this article but must first obtain a franchise from the city.
- (c) The initial term of each permit issued under this article shall be one (1) year from the date of issuance. At the expiration of the initial term, the permit term shall be automatically extended for successive periods of one year unless the city gives written notice of its intent to terminate such permit to the permit holder not less than ninety (90) days prior to the end of the then-current permit term or unless the permit holder sends notice of its intent to terminate the permit at the expiration of the then-current term.
- (d) The rights granted by the issuance of a permit shall not be assigned, transferred or sold to another person by a permit holder without the express written consent of the city, which shall not be unreasonably withheld.

### **Sec. 2.905 Compensation**

- (a) Right-of-way Fee. Each permit holder shall pay the city a right-of-way fee on each access line owned, placed, controlled or maintained by each permit holder and which is

activated for use by an end-user utilizing a permit holder's facilities in the city. The line fee shall be applied to each access line monthly, at month's end, and shall be:

Access Line                      Monthly Fee per Access Line

Residential                      \$ 0.85

Non-Residential                      \$ 1.90

For purposes of payment of fees for use of the public rights-of-way, lines terminating at customer's premises that are billed as "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 access lines upon which the fee is calculated.

- (b) Number of Access Lines. Each permit holder shall provide annually, on or before September 1st of each calendar year, commencing September 1, 2000, a confidential report disclosing, by number and type the access lines owned, placed, controlled or maintained by the permit holder within the city that have been activated for end-user customers and other telecommunications service providers in each of the preceding twelve (12) calendar months. The city shall not disclose such report to the public and the report shall be used solely for verifying the number of each permit holder's access lines within the city that are activated for end-user customers and telecommunications service providers. Upon written request, a permit holder shall verify such reports.
  
- (c) Annexation and Disannexation. Within thirty (30) days after the date of the final passage of any annexation or disannexation ordinance, the shall furnish each permit holder written notice of such action and an accurate map of the city's revised corporate boundaries showing, if available, street names. A permit holder shall commence including, or excluding access lines within the affected area in a permit holder's count of access lines
  - (1) on the effective date designated by the Comptroller of Public Accounts of the State of Texas for the imposition of state local sales and use taxes, or
  - (2) thirty (30) days after the date on which a permit holder is notified by the city of the annexation or disannexation, whichever date is later.
  
- (d) Confidential Records. If a permit holder notifies the city of the confidential nature of any information, reports, documents or writings, the city will maintain the confidentiality of the information, reports, documents, and writings to the extent permitted by law. Furthermore, the requirement of confidentiality shall not apply to data, information or materials within the public domain upon such determination by the city council. Upon receipt by the city of a request for a permit holder's confidential information, reports, documents or writings, the city shall promptly notify a permit holder of the request in writing and by facsimile transmission. The city shall request and obtain an attorney

general's opinion before disclosing any confidential information, reports, documents or writings and will furnish a permit holder with copies of all attorney general opinion requests it makes pertaining to a permit holder's confidential information, reports, documents or writings. The city's reasonable costs and attorney's fees in connection with the submission to the attorney general (as well as those relating to any mandates or other legal proceeding regarding such request) shall be reimbursed by the permit holder. If more than one permit holder's confidential information is requested, the city's reasonable costs and, attorney's fees shall reasonably be apportioned to the permit holders by the city council.

- (e) No Other Fees. The use and occupancy payments due hereunder shall be in lieu, of any permit, license, approval, inspection, or other similar fees or charges, including, but not limited to, all general business license fees, if any, assessed by the city for the use of the public rights-of-way against persons operating businesses like that of a permit holder. Further, such payments shall constitute full compensation to the city for all a permit holder'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 payment. Notwithstanding anything contained in this article to the contrary, nothing in this article shall be construed as exempting or excusing a permit holder from paying ad valorem, (property) taxes to the city and/or sales tax.
- (f) Timing of Payment. Each permit holder shall remit the access line fee to the city, on a quarterly basis. The payment shall be due on the forty-fifth (45th) day following the close of each calendar quarter for which the payment is calculated. Past due payments shall accrue interest at the rate of fifteen (15%) per annum commencing on the first day after the due date.
- (g) Uncollectibles. Each permit holder may pass through to its customers, on a pro rata basis, any compensation paid to the city for access to the public rights-of-way. Any other provision of this article notwithstanding, a permit holder, shall not be obligated to pay the city for any access lines for which revenues remain uncollectible.
- (h) Facilities Provided to Other Telecommunications Service Providers. To the extent allowed by applicable state and federal law, any telecommunications service provider that purchases from a permit holder any unbundled network elements or other facilities for creating telecommunications service for sale to persons within the city shall pay directly to the city a rights-of-way fee as calculated and specified by Section 2.905(a) of this article. Other provisions of this article notwithstanding, a permit holder shall not include in its monthly count of access lines any unbundled network elements or other facilities provided to other telecommunications service providers for the provision of telecommunications services, if the other telecommunications service provider that is providing the telecommunications services to end user customers has provided a signed statement to a permit holder (from whom such unbundled network elements or other facilities were acquired) that the telecommunications service provider is paying the access line fees applicable to those services directly to the city. If a permit holder

provides a copy of the signed statement to the city, then such permit holder is absolved of all responsibility for the access line fees payable on the telecommunications service, unbundled network elements, and other facilities used in the provision of those telecommunications services within the city.

- (i) Fee Application to Leased Facilities. A permit holder shall collect the access line fee imposed by the city pursuant to this article through a pro rata charge to the customers in the boundaries of the city, including any other persons who are leasing, reselling or otherwise using a permit holder's access lines to provide telecommunications service. With respect to any person leasing, reselling, or otherwise using a permit holder's access lines, if a permit holder believes it does not have sufficient information to determine the appropriate rate to apply, then the higher access line fee shall apply until such time as the person using the access lines provides to a permit holder sufficient written information to determine the correct access line fee. If a person provides enough written information for the application of the access line fee, a permit holder may bill the person based on the information provided. A permit holder 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 from such other person for a permit holder to provide the information to the city. Any other provision of this article notwithstanding, however, a permit holder shall not be liable for underpayment of access line fees resulting from a permit holder's reliance upon the written information provided by any person that uses a permit holder's service or facilities for the provision of telecommunications service to end-user customers.

#### **Sec. 2.906 Construction and Maintenance of Facilities**

- (a) The location and route of all facilities and transmission media placed, constructed or relocated in the public rights-of-way shall be subject to the lawful police power of the city.
- (b) Nothing contained in this article shall be construed to require or permit the attachment on or placement in a permit holder's facilities of any electric light or power wires or communications facilities or other systems not owned by a permit holder. If the city desires to attach or place electric light or power wires, communications facilities or other similar systems or facilities in or on a permit holder's facilities, then a further separate, noncontingent agreement with a permit holder shall be required. Nothing contained in this article shall obligate a permit holder to exercise or restrict a permit holder from exercising its right to enter voluntarily into pole attachment, pole usage, joint ownership or other wire space or facilities agreements with any person authorized to operate as a public utility or a telecommunications utility or authorized to offer cable service within the city.
- (c) The surface of the public rights-of-way disturbed by a permit holder in the construction, operation, maintenance or replacement of its telecommunications system shall be restored within a reasonable time after completion of the work to as good a condition as before the

commencement of the work. The permit holder shall endeavor to minimize disruptions to the efficient use of the public rights-of-way by pedestrian and vehicular traffic, and public rights-of-way shall not be blocked for a longer period than reasonably necessary to properly complete all construction, maintenance or replacement work.

- (d) Upon request, a permit holder shall remove or raise or lower its aerial wires, fiber or cables temporarily to permit the moving of houses or other bulky structures. A person requesting such action shall pay the expense of such temporary rearrangements, and a permit holder may require reasonable payment in advance. The permit holder shall be given not less than forty-eight (48) hour notice to arrange for such temporary raising or lowering.
- (e) Permit holders and their respective contractors and agents have the same right, permission and license as the city may have to trim trees upon and overhanging the public rights-of-way to prevent trees from contacting a permit holder's facilities and transmission media. When directed by the city, tree trimming shall be done under the supervision and direction of the city or under the supervision of, the city's delegated representative.

#### **Sec. 2.907 Relocation and Removal of Facilities**

- (a) Upon thirty (30) day notice by the city, a permit holder shall begin relocation of its facilities within the public rights-of-way at its own expense to permit the widening, straightening or improvement of public rights-of-way. The notice by the city shall specify of the new location for a permit holder's facilities along the public right-of-way.
- (b) The city retains the right to move any permit holder's facilities within the public rights-of-way to cure or otherwise address a public health or safety emergency. The city shall cooperate to the extent possible with a permit holder in such instances to assure continuity of service and to afford to a permit holder the opportunity to make such relocation itself.

#### **Sec. 2.908 Indemnification**

- (a) Each permit holder shall indemnify and hold the city and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, losses, expenses, fees (including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought that is found by a court of competent jurisdiction to be caused solely by the negligent act, error, or omission of the permit holder, any agent, officer, director, representative, employee, affiliate, or subcontractor of the permit holder, or their respective officers, agents, employees, directors, or representatives while installing, repairing, replacing or maintaining facilities in the public rights-of-way. The indemnity provided by this subsection does not apply to any liability resulting from negligence of the city, its officers, employees, contractors, or subcontractors. If a permit holder and the

city are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the city under state law and without waiving any defenses of the parties under state law. This section is solely for the benefit of the city and permit holder and does not create or grant any rights, contractual or otherwise, to any other person or entity.

- (b) A permit holder or the city shall promptly advise the other in writing of any known claim or demand against the permit holder or the city relating to or arising out of the permit holder's activities in the public rights-of-way.

#### **Sec. 2.909 Administration of Article**

- (a) The city may, at any time, make reasonable inquiries pertaining to the terms, conditions, rights and obligations of this article, and a permit holder shall respond to such inquiries on a timely basis.
- (b) Copies of petitions, applications, and reports submitted by a permit holder to the Federal Communications Commission or the Public Utility Commission of Texas shall be provided to the city upon specific request.
- (c) After reasonable notice to a permit holder, the city may establish, to the extent permitted by law, such reasonable and non-discriminatory rules and regulations as may be appropriate for the administration of this article and the construction of a permit holder's facilities in the public rights-of-way, so long as those rules and regulations are competitively neutral.

#### **Sec. 2.910 Governing Law**

This article shall be construed in accordance with Texas law to the extent it is not in conflict with the Constitution of the United States or pre-empted by federal law.

#### **Sec. 2.911 Permit**

Any person who owns, operates, manages, or controls facilities already located within the public rights-of-way on the date this article is enacted shall be entitled to a permit hereunder but shall, within thirty (30) days after the effective date of this article, complete and submit to the city the same application form and information required from any other permit applicant. In addition, any such "already located" person shall, within thirty (30) days from the effective date of this article, provide the city a Notice of Pre-existing Facilities. All prospective permit holders shall file a Permit Application Form at least thirty (30) days before placing, using, owning, leasing or controlling any facilities in the public rights-of-way. A Permit Application Form will not be accepted and a permit granted unless the applicant provides on that form the name and address of the person to whom notices hereunder are to be sent, the date on which the applicant expects to begin providing service within the city, a 24-hour per day contact number for the Applicant, and the certificate number of the applicant's certificate issued by the Public Utility Commission of

Texas or a notarized statement from a principal or officer of the applicant that no certification by the Public Utility Commission is required for the type of service to be offered by applicant. The application shall be signed by an authorized officer of the applicant, who shall agree and bind the applicant to abide by all lawful provisions of this article and any amendments hereto.

**Sec. 2.912 Issuance and Effective Date of Permit**

The city shall deliver a certified copy of this article to a permit holder, along with a permit hereunder, within fourteen (14) days after receipt of the Notice of Pre-Existing Facilities or the Permit Application Form. The effective date for any permit shall be the date of issuance; however, the assessment of the access line fee shall not begin until the first day in the second calendar month after the date of issuance of the permit. With respect to permit holders with pre-existing facilities, the assessment of access line fees shall commence October 1, 1999.

**Sec. 2.913 Effective Date of Article**

This article shall be in full force and effect immediately upon its passage by the city council.

**ARTICLE 2.1000 GARAGE/YARD/OCCASIONAL SALES**

**Sec. 2.1001 Limitation on Number**

- (a) Except as provided in subsection (c) below, no more than four (4) garage/yard/occasional sales shall be conducted at the same address within a calendar year.
- (b) Garage/yard/occasional sales shall only take place between Thursday and Sunday and shall not exceed 72 consecutive hours in duration.
- (c) No more than four (4) garage/yard/occasional sales shall be conducted at the same apartment or condominium complex within any calendar year and said garage/yard/occasional sales shall be sponsored by the owner, the management company, or the condominium association of the respective complex.
- (d) If a person conducts more than four (4) garage/yard/occasional sales per year they shall be treated as a business and all city ordinances and regulations applying to businesses shall apply.
- (e) Any person violating this section may be found guilty of a class C misdemeanor and charged a fine not to exceed \$500.00.

**ARTICLE 2.1100 MOBILE FOOD VENDORS**

**Sec. 2.1101 Definitions**

*Charitable Organization.* An entity that the United States Internal Revenue Service recognizes to be a charitable organization or a church.

City. The City of Plum Grove, Texas.

Edible Goods. Shall include, but are not limited to:

- (1) Prepackaged food including, but not limited to, candy, beverages, and ice cream.
- (2) Prepared food which is prepared off-location for sale in the mobile food unit.
- (3) On-site prepared food which is prepared in the mobile food unit.

Food Service Establishment. Businesses that sell edible goods and have been inspected and approved by the state, including commercial kitchens and commissaries, and shall specifically exclude accessory or self-serve retail food sales.

Mobile. The state of being in active, but not necessarily continuous, movement.

Mobile Food Vendors. Any business which sells edible goods from a non-permanent (i.e. mobile) location within the city. The term shall include, but not be limited to:

- (1) Concessions Carts. Mobile vending units that must be moved by nonmotorized means.
- (2) Concession Trailers. A vending unit which is pulled by a motorized unit and has no power to move on its own.
- (3) Mobile Food Trucks. A self-contained motorized unit selling items defined as edible goods.

Nonrefrigerated. Edible goods that are not required to be kept at a temperature below forty-one (41) degrees Fahrenheit according to the Federal Food and Drug Administration and the Texas Food Establishment Rules.

Open to the Public Function. Any function open to the public as where fifteen (15) or more vendors gather to sell or trade goods.

Sell. The act of exchanging a good for payment or in return for a donation.

Stationary Location. The position of the mobile food vendor when addressing the public for sales and not in motion.

Tax-Exempt Organization Sponsored Events. An open to the public function where a tax exempt (charitable, religious, educational or philanthropic) organization is the host.

## **Sec. 2.1102 Permit and Application**

- (a) Permit Application. No person shall act as a mobile food vendor in the city without a permit issued by the city. Every permit, including those from the city and from the state, shall always be displayed in a conspicuous place where it can be read by the public on the mobile food vendor's truck, concession cart, or concession trailer. A person shall make application for a permit to the city on forms furnished by the city and shall provide the following information:
- (1) Name, legal name of business or entity, business address, and telephone number of the applicant;
  - (2) A valid identification issued by any government that includes a photograph of the applicant;
  - (3) The state, county, town or city in which the applicant permanently resides;
  - (4) The applicant's date of birth, height, weight, color of hair, color of eyes, social security number and driver's license number, if existent;
  - (5) Whether the applicant has ever been convicted of any felony or a misdemeanor involving theft, fraud, bribery, sexual offense or perjury;
  - (6) A signed affidavit under oath with photo identification that each individual applicant:
    - (A) Has no unpaid civil judgments against him or her in any state or U.S. possession which arise from a business activity which would have been covered by this section if in effect at the time in the jurisdiction where such judgments are of record.
    - (B) A statement of all convictions in any state, the United States or U.S. possession within the last ten (10) years.
  - (7) The trade name under which the applicant conducts business;
  - (8) Type of business organization or corporation as defined by state law;
  - (9) If applicable, copy of chapter or articles of incorporation and current listing of directors, partners, or principals;
  - (10) Sales tax number with a copy of sales tax permits;
  - (11) Signed permission from all private property owners where the mobile food vending unit will be stationed;
  - (12) Name, phone number, and photocopy of the applicant's driver's license;

- (13) The year, make, model, and color of the mobile food truck, concessions cart, or concession trailer;
  - (14) Contact name and phone number for mobile food vending unit while en route;
  - (15) Description of attached signage;
  - (16) A photograph of the exterior and interior of the mobile food truck, concessions cart, or concession trailer;
  - (17) Proof of motor vehicle insurance, current inspection and current registration;
  - (18) Copy of permits to do business in the state for foreign companies;
  - (19) Description of product being sold;
  - (20) A copy of a valid registration certificate issued by the state for the mobile food truck, concessions cart, or concession trailer;
  - (21) In addition, the applicant shall authorize the city's police department to perform a criminal background check on the applicant.
- (b) Fees. The application fee for a mobile food vendor permit shall be five hundred dollars (\$500.00). Each mobile food vendor unit shall be permitted separately.
- (c) Permit Decisions. The city will evaluate the data furnished by the applicant and may require additional information. Within thirty (30) days of receipt of a completed permit application, the city will determine whether to issue a mobile food vendor permit. The city may deny an application for a permit for any of the following grounds:
- (1) An applicant is found to have an unpaid civil judgment(s) against him/her which relates to the duties and responsibilities of the permitted occupation which shall be determined by the nature and the amount of the judgment, the relationship of the judgment to the purpose of the permit and the extent that the permit would allow someone to engage in further activity that would lead to unsatisfied civil judgments;
  - (2) An applicant has been convicted of a crime which directly relates to the duties and responsibilities of the licensed occupation which shall be determined by the nature and seriousness of the crime, the relationship of the crime to the purpose of the permit and the extent that the permit would allow someone to engage in further criminal activity;
  - (3) Failure to provide all the information required by the city;
  - (4) The applicant's past record of ordinance violations;

- (5) Safety record of the applicant or any driver, based on such things as civil and criminal lawsuits and violations of environmental laws and ordinances;
  - (6) Providing false, misleading or inaccurate information to the city.
- (d) Permit.
- (1) Permits shall be issued for one (1) year terms.
  - (2) Permits are required to be renewed prior to the expiration date.
  - (3) A new permit application is required to be submitted within fifteen (15) days of the following, whereupon the previous permit will be voided, and the previous permit canceled:
    - (A) When ownership of the operating entity is changed; or
    - (B) The city determines that operations or management methods are no longer adequately described by the existing permit application.
  - (4) Permits are not transferrable.
- (e) Suspension or Revocation of Permit.
- (1) A permit may be revoked upon conviction of any offense committed by an individual operating as a mobile food vendor in the city while engaged in the permitted business, or if a final conviction occurs or is found to have existed at the time of application, or if civil judgments, as set forth above, are placed or found of record against an applicant. A permit may be suspended in the event of pending charges of a crime, as set forth above, upon a magistrate's determination of probable cause in connection with such charges.
  - (2) A permit may be revoked for non-conformity to the application location specifications or requirements as well as to non-conformity to an approved location plan or diagram.
  - (3) Any employee working for an applicant permitted as an employer under this section above may be denied the right to solicit under such permit, or such rights may be suspended or terminated, under the same circumstances and procedures which apply to the holder of the permit. Revocation or suspension of an employer's permit terminates all employee permits.
  - (4) A permit may be suspended or revoked for not complying with the requirements of this section, or any other ordinances or laws.

- (f) Appeals. If a city official revokes, suspends or denies a mobile food vendor permit, the holder or applicant of the permit which has been revoked, suspended, or denied shall have the right to appeal a determination made by the city planner to the city manager by submitting a written appeal to the city secretary, with a copy to the city planner, not more than five (5) days after receiving notice of the suspension or denial of permit. The city manager or his or her designee will hear the appeal and issue a written finding not more than twenty (20) days after the notice was delivered to the city secretary. The city manager's determination is final.

## **Sec. 2.1103 Location Restrictions**

(a) Distance Regulations.

- (1) No mobile food vendor shall conduct business within three hundred (300) feet of any church, school building, or residence.
- (2) A mobile food vendor may not be located within one hundred (100) feet of the property line of an open and operating fixed-location food service establishment. This buffer may be reduced upon receiving written permission from said establishments.

(b) Stationary Restrictions. A mobile food vendor shall not conduct sales at a stationary location:

- (1) For a duration of no more than five (5) consecutive days at a location.
- (2) For a duration exceeding eight (8) hours per location per day.
- (3) On any public street located in the city.
- (4) In congested areas where the operation impedes vehicular or pedestrian traffic or where it impedes access to the entrance of any adjacent building or driveway.
- (5) In a designated bike lane.

(c) Location Restrictions.

- (1) No mobile food vendor shall locate on any private property without written permission to do so and must comply if asked to leave by the property owner or city official. A copy of the written permission to operate in a specific location, signed by the private property owner, shall always be kept within the mobile vending unit.
- (2) A mobile food vendor may not be located within twenty (20) feet of another mobile food vendor unless they are within a mobile food court and located in accordance with the approved mobile food court site plan.

- (3) No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill in or upon any motor vehicle without permission of the owner.
- (4) No person shall distribute, deposit, place, throw, scatter or cast any commercial handbill upon any premises if requested by the property owner or city official not to do so, or if there is placed near or at the entrance thereof a sign bearing the words "no advertisement."

**Sec. 2.1104 Mobile Food Vendor Requirements**

- (a) Each unit shall be equipped with a trash receptacle with lid to prevent windblown litter and shall be disposed of in accordance with the city's solid waste ordinance. All solid waste and recyclables shall be bagged. Receptacles shall not be overfilled to prevent complete lid closure. All disturbed areas must be cleaned following each stop at a minimum of twenty (20) feet of the sales location.
- (b) With the exception of the required trash receptacles, mobile food vendors shall not provide freestanding fixtures (e.g. tables, chairs, tents, and canopies).
- (c) Continuous music or repetitive sounds shall not project from the mobile unit.
- (d) A five-foot (5) clear space shall be maintained around the mobile food vendor.
- (e) If liquid waste results from food processing of a mobile food vendor's truck, concession cart, or concession trailer, the waste shall be contained in a permanently installed retention tank located on the vending unit.
- (f) Liquid waste, solid waste, and recyclables shall be removed from a mobile food vendor's truck, concession cart, or concession trailer at a disposal site approved by the city or by a city permitted waste transporter. Removal of waste shall be in a manner that a public health hazard or nuisance is not created.
- (g) Liquid waste from a mobile food vendor shall be characterized as food service waste and shall meet the waste removal, manifesting, disposal and treatment requirements of the city's sewer use ordinance prior to discharge into the city publicly owned treatment works.
- (h) Waste generated from washing or maintenance of mobile vending units shall be done in a manner to prevent release on public or private property.
- (i) The mobile food vendor will be subject to inspection by the city upon permit application and may be subject to random inspection and upon reissuance of the permit.
- (j) No sales are allowed within public parks.

- (k) Mobile food vendor's truck, concession cart, or concession trailer shall be self-sufficient for water and sewer utilities. Use of water and wastewater hoses to provide utility service to mobile vending unit is prohibited. Extension cords may be used for electrical service if the equipment and connection(s) used between the vending unit and supplying source pose no threat to public safety (i.e. personal injury or fire).
- (l) All signage used by the mobile food vendor, including signage painted directly on the mobile food vending unit, shall meet the standards and requirements of the city's sign ordinance.
- (m) Mobile food vendors shall maintain the following fire prevention devices:
  - (1) All mobile food vendors selling food cooked in the mobile food vendor unit shall keep at least one class ABC fire extinguisher with a minimum 3A40BC rating, with visible current inspection (tagged), fully charged, and located within thirty (30) feet of the cooking equipment;
  - (2) All mobile food vendor units producing grease-laden vapors (grills, fryers, etc.) shall keep, in addition to the extinguisher required in subsection (m)(1), a class K rated portable fire extinguisher, with visible current inspection (tagged), fully charged, and located within thirty (30) feet of cooking equipment;
  - (3) All mobile food vendor units producing grease-laden particles within the mobile unit shall install an extinguishing vent hood (type 1 or other, if approved by the city's fire marshal or designee), which must be tested in the presence of the city's fire marshal or designee before a permit may be issued; and
  - (4) All mobile food vendor units using compressed gas (LP/propane cylinders, etc.) shall keep gas containers secured outside of the passenger area of the vending unit. Compressed gas cylinders shall be secured by one or more restraints to a fixed object or nested and secured by one or more restraints and cannot be located closer than ten (10) feet from any trash or combustible material. All valves, hoses, and connections used shall be rated for use with petroleum gas.

**Sec. 2.1105 Enforcement**

- (a) It shall be unlawful for an individual to sell edible goods while displaying a valid permit issued by the city in the name of another individual, organization, or entity outside of an employment relationship.
- (b) It shall be unlawful for any individual directly or through an agent or employee to sell goods within the corporate limits of the city after the expiration of the permit issued by the city under this article.
- (c) It shall be unlawful for an individual directly or through an agent or employee to misrepresent on the permit affidavit any acts that are regulated under this article.

- (d) It shall be unlawful for any individual directly or through his agents or employees to represent that the issuance of a permit by the city constitutes the city's endorsement or approval of the product for sale.
- (e) It shall be unlawful to operate a mobile food vendor operation that is not in compliance with the Texas Food Establishment rules as amended from time to time.
- (f) Any person convicted of a violation of any provision of this article shall be guilty of a class C misdemeanor punishable by a fine not to exceed \$2,000.00 per occurrence.

**Sec. 2.1106 Open to the Public Function Permitting**

Any individual or business hosting an open to the public function shall apply for a master mobile food vendor permit for the event. In addition to the items previously listed, the master permit application should also include an estimate of the number of mobile food vendors involved. The master permit holder will be responsible for all mobile food vendors and sells done under that permit. The master permit shall be present at the event and all mobile food vendors should know who holds it. During the event the master permit holder must maintain an accurate list of the mobile food vendors participating in the event. The master permit holder shall give the city access to the list of mobile food vendors at any time. The applicant applying for a master permit as the host of an open to the public function must comply with this article and pay a fee of \$200.00. The host of an open to the public function does not have to pay additional fees for each mobile food vendor at the event.

**Sec. 2.1107 Exemptions**

A permit under this article is not required in the following instances:

- (1) The sale of milk, dairy products, bakery products, raw vegetables, raw poultry, raw eggs and other farm and garden products which have been raised or produced by the vendor and that are being sold in an unrefined state.
- (2) Daily deliveries of milk, water and bakery products.
- (3) Charitable organizations as defined herein shall not be required to obtain a permit under this article.
- (4) Vendors at a tax-exempt organization sponsored events shall not be required to obtain a permit under this article.

# CHAPTER 3 FIRE PROTECTION

## ARTICLE 3.00 FIRE LIMITS

### Sec. 3.101 Limits Designated

The following shall be and are hereby declared to be the fire limits:

- (1) Beginning at Wintree Street on the Southern Pacific Railroad tracks and following the main line West to a point two hundred (200) feet West of Main Street.
- (2) Thence South parallel with Main Street to a point one hundred (100) feet South of State Highway 90.
- (3) Thence East parallel with State Highway 90 to Church Street.
- (4) Thence North on Church Street to Cook Street.
- (5) Thence East on Cook Street to Wintree Street.
- (6) Thence North on Wintree Street to point of beginning.

### Sec. 3.102 Permits and Inspections

- (a) No wall structure, building, or part thereof, shall hereafter be built, enlarged, or altered until a plan of the proposed work, together with a statement of materials to be used, shall have been submitted to the city secretary, who shall, if in accordance with the provisions herein contained, issue a written permit for the proposed work. Permits to be kept on file with the city secretary. No permit shall be necessary for repairs with an estimated cost of less than fifty dollars (\$50.00) for materials and labor.
- (b) Structures hereafter erected without a permit, or not in conformity with the articles, shall be removed at the owner's expense.
- (c) No building shall be moved from without to within the fire limits, nor from one location to another within the fire limits until a permit shall have been issued there for. No permit shall be issued unless such construction is in accordance with this article.
- (d) The designated building inspector shall inspect, as often as practical, construction in progress to see that all provisions of this article are being complied with.

**Sec. 3-103 Construction Required within the Fire Limits**

(a) No building or structure of wooden, ironclad (whether on wood or metal supports), stucco, or veneer type construction, or any building whose walls contain wood supports shall be permitted except as indicated in Section 3-104. No building shall hereafter be built, enlarged, or altered except in accordance with this article.

(b) The thickness of walls shall be not less than as given below:

(1) Brick walls shall be not less than twelve (12) inches thick, except that small one-story buildings with floor areas of seven hundred fifty (750) square feet or less may have walls eight (8) inches thick. Where a wall or walls of any such building shall be or become a party or division wall, such party or division wall shall be not less than twelve (12) inches in thickness.

(2) Reinforced concrete walls may be three-fourths (3/4) of the thickness of brick walls but in no case less than eight (8) inches thick.

(3) Hollow building tile may be used as filler walls, provided such walls be supported by reinforced concrete beams and footings, and by reinforced concrete columns of minimum dimensions 12" X 12", or brick pilasters of minimum dimensions 16" X 16", spaced not more than sixteen (16) feet apart, such concrete columns or brick pilasters to be joined by a continuous reinforced concrete beam of sufficient size and strength to support the roof proposed for such building, according to the plan thereof; walls to be not less than twelve (12) inches thick. One-story buildings with floor areas of seven hundred fifty (750) square feet or less may have walls of eight (8) inch hollow building tile, except where a wall or walls of such building shall become a party or division wall, in which case such party or division wall shall be not less than sixteen (16) inches in thickness, unless said wall shall have pilasters constructed of reinforced concrete and shall measure 12" X 12" or if constructed of brick, the measurement shall be 16" X 16".

(4) Concrete tile may not be used unless the manufacturer's specifications therefor have been previously approved by the National Board of Fire Underwriters.

(5) Solid stone walls shall be four (4) inches thicker than brick walls for like construction.

(6) All exterior walls, party walls, and division fire walls shall have parapets extending at least eighteen (18) inches above the roof and said parapets shall be at least twelve (12) inches thick, except where eight (8) inch walls are permitted as above, in which case parapets may be eight (8) inches thick.

**Sec. 3-104 Frame Buildings in Fire Limits**

The following frame structures are permissible in the fire limits:

(1) Temporary one-story frame buildings for the use of builders

(2) Temporary wood fences not over eight (8) feet high without roof or cover

### Sec. 3.105 Roofs

(a) All buildings or structures hereafter constructed in the fire limits shall have incombustible roof coverings

(b) No roofing on an existing roof shall be removed or repaired than twenty percent (20%) of the roof surface, except in conformity with this article, and in no instance shall more than one permit be issued each existing building in any one (1) year

### Sec. 3.106 Repairs and Additions

(a) Any existing building within the fire limits which may hereafter be damaged by fire, decay, or otherwise, to an amount greater than fifty percent (50%) of its present value exclusive of the foundation, shall not be repaired or rebuilt, but shall be removed

(b) Extensions, remodeling, or additions to existing buildings shall not be considered as repairs, and shall not be permitted except wherein conforming with Section 3.103 of this article

### Sec. 3.107 Arbitration

Whenever an application for permit to repair any existing building already located within the fire limits is made by any person or firm, and the city council and the applicant disagree to the extent of repairs to be made, and a permit is denied by the designated building inspector, then the city council shall appoint a competent and disinterested person, the applicant shall appoint a competent and disinterested person, which said two (2) persons so appointed shall select a third member, and those said three (3) persons shall appraise the building, examine the plan of the proposed work, and the statement of materials and labor to be used in the repairing or rebuilding of said building and make a signed written report of their findings to the city council. If such report reflects clearly that said rebuilding or repairing would be a violation of this article, then such application for permit shall be denied by the city council, and if such reports reflect that the person seeking said permit has complied with said article, and the requested rebuilding or repairing is not in violation of said article, then said city council shall issue a permit for the proposed rebuilding or repairing.

### Sec. 3.108 Violation

Every person, firm or corporation who violates any section of this article shall be guilty of a misdemeanor and upon conviction thereof shall be fined. For each offense and each day that such violation shall exist shall constitute a separate offense.

## ARTICLE 3.200 FIRE ZONE

**Sec. 3.201 Purpose of Article**

The city council of the City of Plum Grove finds the future commercial growth within the corporate limits of the City of Plum Grove will be concentrated along existing highways, namely U.S. 90, State Highway 321, FM 1960, State Highway 146, FM 1409 and FM 1408. Consequently, in the interest of the protection of the health, safety and welfare of the citizens and properties within the corporate limits of the City of Plum Grove, the city council deems it necessary and advisable to enact this article.

**Sec. 3.202 Zone Defined**

- (a) The fire zone of the City of Plum Grove is hereby defined as all areas now and hereafter designated as any zoning less restrictive than single family residential in accordance with the official zoning map(s) of the City.
  
- (b) The fire zone in the City of Plum Grove shall also include all areas located within one hundred fifty (150) feet from the highway, road or street right-of-way line or one hundred and fifty (150) feet from the highway, road or street boundary line, whichever is applicable, along both sides (unless otherwise indicated) of the following designated public roadways.
  - (1) Plum Grove Road, through the City of Plum Grove.

**Sec. 3.203 Map**

To aid in carrying out the terms of this article, and for purposes of assistance, a map is maintained on file in the office of the city secretary with all non single family residential zoning. The map is a guide only, and the descriptions in Section 3.202 of this article shall control.

**Sec. 3.204 Setbacks on Major Thoroughfares**

All buildings or structures erected, placed or moved to major thoroughfares, namely Plum Grove Road; shall not be located closer than five (5) feet from property line adjacent to the thoroughfares' right-of- way and/or easement. Appurtenances, overhangs, etc., can extend to the property line provided they are twelve (12) feet or more above the natural ground. Single family residential structures must meet the existing code and previous ordinance requirements and are not affected by this section.

**Sec. 3.205 Setback Requirements Generally**

No building or structure shall be constructed, erected, placed or moved upon any property located within the fire zone unless:

- (1) If located ten (10) feet or closer to a side or rear property line, the wall of the building or structure facing such side or rear line shall be constructed of materials having not less than a four (4) hour rating.
- (2) If located more than ten (10) feet from a side or rear property line, the wall of the building or structure facing such side or rear line shall be constructed of materials having not less than a two (2) hour rating.
- (3) Notwithstanding the requirements contained in (1) and (2) above, a fire wall shall not be required if both of the following requirements are met:
  - (A) The building to be constructed is located more than twenty (20) feet from all the property lines of the lot, tract or parcel of land upon which such building is proposed to be constructed.
  - (B) The building to be constructed is located more than twenty (20) feet from the closest existing building on the same property as the building proposed to be constructed.

**Sec. 3.206 Certain Buildings Exempt**

The provisions of this article shall not apply to any building (which shall include mobile homes) placed or located on property within the fire zone for sale and not primarily for on-premises use or occupancy.

**Sec. 3.207 Variances**

The granting of variances from the setback requirements set forth in this article shall follow the requirements for variances.

**Sec. 3.208 Penalty for Violation**

Any person who violates a provision of the article shall be guilty of a misdemeanor, and upon conviction shall pay a fine. Each day that a violation of this article occurs shall be deemed a separate offense. The term "person" as used in this article shall mean a natural person, a corporation, partnership or any other entity, however organized.

**ARTICLE 3.300 FIRE FIGHTING ACTIVITIES**

**Sec. 3.301 City Not Responsible for Damages**

Neither the city council or the individuals composing said council, nor the fire chief or any members of the fire department; shall in any wise be held responsible for damages occasioned to property during attempts to extinguish fires, or for the destruction thereof, or for damage done to any person, or animal or vehicle coming into collision with the fire extinguishing apparatus or the vehicle driven by members of the department when repairing to the place of a fire.

**Sec. 3.302     Placing of Ropes**

The fire chief, or the officer in command, shall have the right to order the placing of ropes or guards across all street, alleys or lanes on which may be situated any building on fire, and at such other points as may be deemed expedient and necessary, and they shall prevent the entrance of all persons, except firemen, into the danger zone. If advisable, owners and occupants and employees in adjoining buildings, endangered by the existing fire, may be admitted.

**Sec. 3.303     City Vehicles have Right-of-Way through Streets**

All moveable apparatus of the fire department and vehicles driven by members of the department shall have the paramount right-of-way through all streets, lanes, alleys, places and courts of the city when running to a fire. In order to give such apparatus and the vehicles of the member of the department the unobstructed use of the public ways, upon an alarm, all pedestrians shall get off such public ways and vehicles thereon shall be parked at the curb, or drawn up close behind vehicle parked at the curb and halted or shall be driven off at the next intersection, if necessary to clear the way for the fire apparatus and accompanying vehicles. Traffic shall not be continued until all firefighting equipment has reached its destination.

**Sec. 3.304     Destruction of Structures to Aid in Fighting Fire**

Whenever any building in the city is on fire, it shall be lawful for the chief, or acting chief, with the concurrence of the mayor, to direct such building or adjoining buildings, erections, or fences likely to burn and communicate the fire to other buildings, to be torn down or blown up, or otherwise destroyed in order to check or extinguish the existing fire.

**Sec. 3.305     Arresting Suspects**

During the progress of a fire in the City of Plum Grove and for twenty-four (24) hours after its extinguishment, the mayor, city council, fire marshal, city marshal, or other police officers of said city, may arrest and keep in custody all persons suspected of arson, idle, disorderly or suspicious persons, and persons who hinder any fireman in the discharge of his duty or resist or refuse to obey any such officer while acting in the discharge of his duty.

**Sec. 3.306     Refusal to Obey; Misdemeanor**

The officers mentioned in the preceding section and the fire chief, or the next ranking firefighting officer present, shall be vested with full power and authority to command all persons present at any fire to assist in any duty to secure the extinguishment of such fire and with the removal and preservation of property and life. Any person who shall fail or refuse to obey such officer as aforesaid shall be deemed guilty of a misdemeanor.

**Sec. 3.307     Unlawful to Interfere with Duties of Fire Department**

It shall be unlawful for any person or persons, not a member or members of the fire department to interfere with or in any manner hinder the fire department or any member or employee of said fire department in the discharge of its or his duties as such.

**Sec. 3.308 Unlawful to Interfere with Fire Department Apparatus**

It shall be unlawful for any person or persons, not a member or employee of said fire department, to handle or in any way interfere with any of the apparatus belonging to or used by the fire department whether at a fire, going to or coming from a fire, while housed at the fire station, or at any time, unless requested to do so by an officer of said fire department. Furthermore, it shall be unlawful to walk on or to pass across or over any fire hose with a vehicle.

**Sec. 3.309 Unlawful to Set-off False Fire Alarm**

It shall be unlawful for any person to falsely or maliciously give an alarm of fire by any means when there is no fire.

**Sec. 3.310 Passage of Regulations by Fire Department**

The fire department may pass such additional regulations not inconsistent with the provisions hereof, other ordinances of the city, and with the laws of the State of Texas, which it deems necessary for its good government; and any member of the fire department who fails or refuses to comply therewith and with the provisions hereof shall forfeit his membership in such department.

**Sec. 3.311 Violations and Penalty**

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and shall be fined.

**ARTICLE 3.400 ARSON REWARD**

The City of Plum Grove, Texas, hereby offers a reward of two hundred and fifty dollars (\$250.00) for information leading to the arrest and conviction of any person or persons found guilty of committing the crime of arson within the corporate limits or ETJ of said City of Plum Grove, Texas. This reward is a standing offer and shall be paid out of the general fund of the City of Plum Grove, Texas. The city council shall be the sole and exclusive judge in determining eligibility for this reward.

**ARTICLE 3.500 FIREWORKS**

- (a) No person, firm, company, corporation or association shall cast, throw or fire any squib, rocket, cracker, torpedo, grenade, or other combustible fireworks of any kind in the city limits of Plum Grove; provided however that this section shall not prevent any public or private demonstration or display of fireworks of any kind, if conducted under proper

police supervision after application and permit issued by the chief of the fire department for such demonstration.

- (b) No person, firm, company, corporation or association shall exhibit or have in his possession, with intent to give away or sell or offer for sale or sell, within the City of Plum Grove any squib, rocket, cracker, torpedo, grenade, or other combustible fireworks of any kind within the City of Plum Grove. Any lot, parcel or tract of land annexed into the City of Plum Grove shall be exempt from this prohibition for a period of six months following the date of annexation.
- (c) Any person, firm, corporation, company or association who shall violate any of the provisions of this article, or suffer or allow the same to be violated, shall upon conviction therefore be subject to a fine. Each day a violation of this article occurs shall be deemed a separate offense.

#### **ARTICLE 3.600 OFFICE OF FIRE MARSHAL**

Ordinance 56, which abolished the office of fire marshal is hereby repealed in its entirety and said office is hereby reestablished in the City of Plum Grove. (Ordinance adopting Code)

# CHAPTER 4

## HEALTH & SANITATION

### ARTICLE 4.100 PROPERTY MAINTENANCE

#### Sec. 4.101 Stagnant Water

It shall be unlawful for the owner of any lot or other premises in the city to allow or permit holes or places where water may accumulate and become stagnant to be or remain on such lot or premises or to allow or permit the accumulation of stagnant water thereon, or to permit the same to remain thereon.

#### Sec. 4.102 Accumulation of Carrion, Filth, Etc.

It shall be unlawful for the owner of any lot, building, house, establishment or premises in the city to allow or permit any carrion, filth or any other impure or unwholesome matter of any kind to accumulate or remain thereon.

#### Sec. 4.103 Growth Limitations

- (a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city, to permit weeds, brush or any objectionable or unsightly vegetation to grow to a greater height than 12 inches upon real property of less than five acres within 150 feet of any property line which abuts street rights-of way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures. It shall be the duty of such person to keep the area from the line of his property to the curb line next adjacent to it, if there is a curb line, and if not, then to the edge of the pavement including any roadside ditches, free and clear of the matter referred to above. All vegetation not regularly cultivated, and which exceeds 12 inches in height shall be presumed to be objectionable and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street or easement but shall be kept mowed the same as provided above. On lots greater than five acres, a 15-foot wide buffer zone on all four sides of the property that abuts a commercial or residential use shall be kept free of weeds and tall grass.
- (b) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city, to keep the area adjacent to his property line, including the front or side parkway between the property line or sidewalk and the curb and the rear parkway between the property line and the alley pavement or travel way, or if there is no curb, then to the edge of the pavement including any roadside ditches, free and clear of the matter referred to herein. Provided, however, that where the alleyway is not open to traffic, that the parkway in such cases shall be deemed to be between the property line and the centerline of the alley.

- (c) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied, within the city, to keep sidewalk areas, roadside ditches and curb lines within and adjacent to such person's property free and clear of grass, weeds and vegetation.

**Sec. 4.104 Duty to Cut and Remove Weeds, Brush, Etc.**

It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property to cut and remove all weeds, brush and other objectionable or unsightly vegetation as often as may be necessary to comply with Section 4.103, and to use every precaution to prevent the same from growing on such premises.

**Sec. 4.105 Regulations Pertaining to Plant Life**

No plant life of any type shall be planted or maintained to be detrimental or dangerous to those owners on adjoining premises or in any way obstruct the view of these persons using public streets and alleys. No screens, hedge, tree, bush or shrub shall be planted or maintained in such position or place to be dangerous or detrimental to the health or safety of persons living in any house on the adjoining premises or in any way obstruct the view to constitute a traffic hazard.

**Sec. 4.106 Notice to Comply; Work Done by City if Notice Not Complied with**

- (a) In the event that any person owning, claiming or occupying or having supervision or control of any real property, occupied or unoccupied, within the corporate limits of the city, fails to comply with the provisions of this article, it shall be the duty of the city manager or his designee to give seven days' notice in writing to such person or persons:
- (1) Personally, to the owner in writing;
  - (2) By letter addressed to the owner at the owner's address as recorded in the appraisal district records of the county; or
  - (3) If personal service cannot be obtained:
    - (A) By publication at least once;
    - (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.
- (b) Similar notice shall be given to any person occupying or having supervision or control of the property as an occupant, tenant, or lessee.

- (c) If the notice to the property owner is mailed by the United States Postal Service, certified mail, and the notice is returned as “refused” or “unclaimed,” the validity of the notice is not affected, and the notice is considered as delivered.
- (d) The city, in the notice of the violation, may inform the owner, occupant or person having supervision or control over the property, by regular mail and a posting on the property, that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property. If a violation covered by a notice under this subsection occurs within the one-year period, and the city has not been informed in writing by the owner of an ownership change, then the city without notice may take any action permitted by this section and assess its expenses.

**Sec. 4.107 Collection of Expenses Incurred by City**

The expense incurred by the city for correcting the condition of such property, and the cost of publishing notice in the newspaper, shall be paid by the city and charged to the owner of such property. In the event the owner fails or refuses to pay such expense, the city shall file with the county clerk a statement of the expenses incurred in correcting the condition of the property. When such statement is filed, the city shall have a privileged lien on such property, second only to tax liens and liens for such improvements, to secure the payment of the amount so expended. Said amount shall bear interest at the rate of ten percent per annum from the date the city incurs the expense. For any such expenditures and interest, suit may be instituted, and recovery and foreclosure had by the city. The statement of expense filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work, improvement or correction of the property.

**Sec. 4.108 Penalty for Violations**

Any person violating any of the provisions of this article shall be subject to a fine, upon conviction in the municipal court, of not more than \$500.00, and each day the premises shall remain in a condition in violation of the terms of this article shall constitute a separate offense. This section shall be in addition to and cumulative of the provisions for the abatement of the nuisance by the city and charging the cost of same against the owner of the premises.

**ARTICLE 4.200 LITTERING**

- (a) The word “person” shall include an individual, corporation, partnership, association or any other entity however organized.
- (b) No person shall place, dump, throw, litter or dispose of any paper, metal, garbage, glass, trash, rocks, any type of debris or any organic materials onto any real property owned, controlled or maintained by the city.

- (c) This article shall not prohibit the city or any authorized person from improving, maintaining or repairing any property to which this article is made applicable.
- (d) Each time that any described material is dumped in, placed on, or disposed of in or onto any property owned by and/or maintained by the city shall constitute a separate offense. Each offense shall be punishable by a fine.

# CHAPTER 5

## OFFENSES & NUISANCES

### ARTICLE 5.100 JUNKED VEHICLES

#### Sec. 5.101 Authority

This article is adopted pursuant to the authority provided by the Texas Transportation Code, Chapter 683, and any successor statutes, to establish procedures for the abatement and removal from private or public property or public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance.

#### Sec. 5.102 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:

Abandoned Motor Vehicle. Any motor vehicle that:

- (1) Is inoperable and more than five (5) years old and left unattended on public property for more than 48 hours;
- (2) Has remained illegally on public property for more than 48 hours;
- (3) Has remained on private property without the consent of the owner or person in control of the property for more than 48 hours;
- (4) Has been left unattended on the right-of-way of designated state, county or federal highway for more than 48 hours; or
- (5) Has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the state turnpike authority or a controlled access highway.

Antique Vehicle. A passenger car or truck that is at least 25 or more years old.

Collector. 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 vehicles for his own use to restore, preserve and maintain an antique or special interest vehicle for historic interest.

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

Inoperative. A motor vehicle that is either mechanically incapable of being driven or that, due to mechanical defects, cannot be lawfully operated on public roads. At a hearing, a junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

Junked Vehicle. Any motor vehicle, as defined in V.T.C.A., Transportation Code Section 683.071 that is self-propelled and:

- (1) Does not have lawfully attached to it:
  - (A) An unexpired license plate; or
  - (B) A valid 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:
    - (i) Seventy-two consecutive hours, if the vehicle is on public property; or
    - (ii) Thirty consecutive days, if the vehicle is on private property.

Motor Vehicle. Any motor vehicle subject to registration under the Texas Certificate of Title Act, V.T.C.A., Transportation Code Ch. 501 et seq., except that for purposes of this article a motor vehicle shall include a part thereof, a motorboat, an outboard motor or a vessel subject to registration under the V.T.C.A., Parks and Wildlife Code, Section 1.01 et seq.

Special Interest Vehicle. A motor vehicle of any age that has not been changed from the original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

#### **Sec. 5.103 Administration; Right of Entry**

- (a) The code enforcement officer, the chief of police and their respective designees, who are regularly salaried, full-time employees, are designated as the administrators of this article, except that the removal of vehicles or parts of vehicles from public or private property may be by any other person authorized to do so by the administrators named in this subsection.
- (b) Persons authorized in subsection (a) of this section to administer this article may enter upon private property for the purposes specified in this article to examine vehicles or parts of vehicles, to obtain information as to identification of vehicles and to remove or cause the removal of a vehicle or parts of a vehicle declared to be a nuisance pursuant to this article.

**Sec. 5.104 Junked Vehicles Deemed Nuisances**

- (a) Is detrimental to the safety and welfare of the public;
- (b) Tends to reduce the value of private property;
- (c) Invites vandalism;
- (d) Creates fire hazards;
- (e) Constitutes an attractive nuisance creating a hazard to the health and safety of minors;  
and
- (f) Is detrimental to the economic welfare of the state, by producing urban blight, which is averse to the maintenance and continuing development of the municipalities in the state.

Such a vehicle is therefore declared to be a public nuisance.

**Sec. 5.105 Exceptions**

This article shall not apply to:

- (1) A vehicle or part of a vehicle 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; or
- (2) A vehicle that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer, junkyard, auto repair facility or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, provided the vehicle and the outdoor storage area are 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 constructed of either treated wood or masonry or combination thereof, rapidly growing trees, shrubbery or other appropriate mean as prescribed by the city's code of ordinances.

**Sec. 5.106 Notice to Abate; Hearing; Disposal**

- (a) Whenever any public nuisance exists in the city, as described in this article, a person authorized in Section 5.103 to administer and enforce this article shall send written notice by certified mail, with a five (5) day return receipt requested, to the owner or occupant of the private premises or the private premises adjacent to the public right-of-way upon which such public nuisance exists. Such notice shall state the following:
  - (1) The nature of the public nuisance;

- (2) The nuisance must be removed or abated within ten (10) days after the date on which the notice was mailed; and
  - (3) The recipient of the notice may request a public hearing within ten (10) days of receipt of the notice. Such hearing shall be held before the judge of the municipal court. At the hearing it shall be presumed that the vehicle is inoperable, unless otherwise demonstrated by the owner.
- (b) The notice shall also be sent to the last known registered owner of the junked motor vehicle and any lien holder of record.
  - (c) If the postal address of the last known registered owner of the junked vehicle is unknown, notice to the last known registered owner shall be placed on the motor vehicle, or if the owner is located, hand delivered.
  - (d) If any notice is returned undelivered by the U.S. Post Office, official action to abate the nuisance shall be continued not earlier than the 11th day after the date of such return.
  - (e) No vehicle that has been removed by the city or on behalf of the city under this article may be reconstructed or made operable after it has been removed.
  - (f) Any order requiring the removal of the vehicle or vehicle part must include a description of the vehicle or vehicle part and the correct identification number and license number of the vehicle, if such information is available at the site.
  - (g) Any vehicle found to be a public nuisance under this article and ordered to be removed and abated shall not be abated until the vehicle is removed to an authorized location or restored to such a condition that it no longer constitutes a public nuisance under this article.
  - (h) If no hearing is requested within the time provided in this section or if a hearing is held and the hearing officer orders that the vehicle be removed and the owner of the vehicle or occupant of the premises shall fail to comply with an order of the court to remove the vehicle shall cause the vehicle to be removed and disposed of in accordance with this article.
  - (i) If a hearing is requested and, upon order by the judge of the municipal court or other hearing officer designated of the city council that a junked vehicle be removed as a public nuisance, the code enforcement officer or chief of police or his/her designee shall cause such junked vehicle to be removed from the premises where it is located at the time.
  - (j) Upon such removal the code enforcement officer, chief of police or his/her designee shall cause the junked vehicle to be transported to a scrap yard, demolisher or other suitable site where the junked vehicle shall be disposed of a scrap or salvage.

- (k) The code enforcement officer, chief of police or his/her designee may enter private property to examine a vehicle or vehicle part, to obtain information as to the identity of the vehicle or vehicle part and to remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The judge of the municipal court may issue orders necessary to enforcement of this section.
- (l) Upon removal of a junked vehicle under this article, a person authorized to enforce this article shall cause notice to be sent to the state department of highways and public transportation not later than five (5) days after the date of removal. Such notice shall identify the vehicle and shall request the department to cancel the certificate of title to the vehicle.
- (m) The city manager or the chief of police may arrange for or employ such assistance or means as is necessary to carry out the duties prescribed in this section.
- (n) The regularly salaried full-time city employees authorized to enforce this article may issue citations for violations of this article.

**Sec. 5.107 Penalty for Failure to Abate or Allow Abatement of Nuisance**

- (a) Whenever a junked vehicle is a public nuisance as defined in Section 5.104, any owner or occupant of the premises upon which such nuisance is located who shall fail, refuse or neglect to remove or abate such nuisance or who shall refuse notices as provided in this article or who shall refuse to abide by any order requiring the removal of the vehicle or part of a vehicle commits an offense and upon conviction shall be subject to a fine and each day such violation continues to exist shall constitute a separate offense.
- (b) Upon conviction under this section, the court shall order the abatement and removal of the junked vehicle which is the subject of such conviction upon a finding by the court that such vehicle continues to constitute a public nuisance.

**Sec. 5.108 Removal of Abandoned Vehicles**

- (a) The chief of police or his/her designee may take into custody any abandoned motor vehicle found on public or private property within the corporate limits by causing the removal of such vehicle to the police impound lot or other appropriate facility designated by the police department.
- (b) Upon taking an abandoned motor vehicle into custody, the chief of police or his/her designee shall notify by certified mail the last known registered owner of the abandoned motor vehicle and all lien holders of record that the abandoned motor vehicle has been taken into custody. The notice shall be given not later than ten (10) days after taking the motor vehicle into custody. The notice shall:
  - (1) Include a description of the year, make, model and vehicle identification number of the abandoned vehicle;

- (2) Include the location of the facility where the motor vehicle is being held;
  - (3) Inform the owner and lien holders of their right to reclaim the vehicle and the requirements and procedures for reclaiming the vehicle; and
  - (4) State that the owner's or lien holder's failure to reclaim the vehicle within 20 days of the date of notice provided constitutes a waiver of all right, title and interest in the vehicle and constitutes their consent to the sale of the abandoned vehicle at public auction.
- (c) If the identity or address of the last registered owner of the abandoned motor vehicle cannot be determined or if the identity or address of all lien holders cannot be determined with reasonable certainty, notice shall be given by publication. Such notice shall:
- (1) Be published once in a newspaper of general circulation in the area where the motor vehicle was abandoned;
  - (2) Be published not later than ten (10) days after taking the motor vehicle into custody; and
  - (3) Have the same contents required for a notice by certified mail.

**Sec. 5.109 Disposition of Abandoned Vehicles**

- (a) If an abandoned motor vehicle has been taken into custody and has not been reclaimed as provided by this article, the police department may sell the vehicle at public auction.
- (b) Proper notice of the auction shall be given as follows:
  - (1) If a vehicle being auctioned is encumbered with a garage keeper's lien, the garage keeper shall be notified of the time and the place of the auction; and
  - (2) Proper notice of the auction shall consist of a single publication in a newspaper of general circulation in the area where the vehicle was abandoned and shall include the following information:
    - (A) The time, date and place of the auction;
    - (B) A description of the year, make, model of the vehicle; and
    - (C) The vehicle identification number, if known.
- (c) The purchaser at auction shall receive a sales receipt from the police department.
- (d) From the proceeds of the sale of the vehicles, the police department shall reimburse itself for the following:

- (1) Expenses of the auction;
  - (2) The costs of towing, preserving and storing the vehicle; and
  - (3) All notice and publication costs.
- (e) Any remainder from the proceeds of the sale shall be held for 90 days and for the benefit of the owner or entitled lien holder. After the expiration of 90 days, any remainder from the proceeds of the sale shall be deposited in a special fund for the payment of auction, towing, preservation and storage costs of other abandoned vehicles where the sale of such vehicle is insufficient to defray these costs. Any amounts in the special fund exceeding \$1,000.00 shall be transferred to the city general revenue account for use by the police department.

## **ARTICLE 5.200 ALCOHOLIC BEVERAGES**

### **Sec. 5.201 Definitions**

For purposes of this article, "alcoholic beverage," "beer," "liquor," and other terms have the definitions contained in the Texas Alcoholic Beverage Code, as amended.

### **Sec. 5.202 Hours of Consumption, Possession and Sale**

- (a) The city is hereby designated as an "extended hours area," and the times permitted for consumption and possession of alcoholic beverages are outlined in this article.
- (b) It shall be unlawful for any person within the corporate limits of the city to consume any alcoholic beverage in any public place or for any person to possess any alcoholic beverage for the purpose of consuming the same in such public place at any time on Sundays between the hours of 2:15a.m. and 12:00p.m., and on all other days at any time between the hours of 2:15a.m. and 7:00a.m.
- (c) It shall be unlawful for any person who shall hold a retail dealer's on-premises late hours license or mixed beverages late hours permit issued under the provisions of the Texas Alcoholic Beverage Code to sell any alcoholic beverage or offer the same for sale:
  - (1) On Sunday at any time between the hours of 2:00a.m. and 12:00p.m.
  - (2) On any day except Sunday at any time between the hours of 2:00a.m. and 7:00a.m.
- (d) It shall be unlawful for any person who shall not hold a retail dealer's on-premises late hour license or a mixed beverages late hour permit issued under the provisions of V.T.C.A., Alcoholic Beverage Code to sell any alcoholic beverage or offer the same for sale:

- (1) On Sunday at any time between the hours of 1:00a.m. and 12:00p.m.
  - (2) On any day except Sunday at any time between the hours of 12:00a.m. and 7:00a.m.
- (e) It shall be unlawful for holders of package store permits as provided in the Texas Alcoholic Beverage Code to sell, offer for sale, or deliver any liquor:
- (1) Between 9:00p.m. of any day and 10:00a.m. of the following day;
  - (2) On Sunday;
  - (3) On New Year's Day;
  - (4) On July Fourth;
  - (5) On Labor Day;
  - (6) On Thanksgiving Day;
  - (7) On Christmas Day;
  - (8) On the following Monday when Christmas Day or New Year's Day falls on a Sunday.

**Sec. 5.203 Inspection**

It is hereby made the duty of the city manager or his designee to enter and inspect, as often as the occasion demands, all manufacturing, distributing, and retailing establishments handling alcoholic beverages under the terms of this article to enforce the health and sanitary ordinances of the city.

**Sec. 5.204 Proximity of Dealer to School, Church, or Hospital**

Except as otherwise provided by the Texas Alcoholic Beverage Code, it shall be unlawful for any person to sell or possess to sale any alcoholic beverages where the establishment or place of business of any dealer is within three hundred (300) feet of a church, public or private school, or public hospital, measured in accordance with the measurement calculations of V.T.C.A. Alcoholic Beverage Code.

**Sec. 5.205 Park**

It shall be unlawful for any person to possess any alcoholic beverage in or upon any public park within the corporate limits of the city. It shall be unlawful for any person to consume any alcoholic beverage in or upon any public park within the corporate limits of the city.

**Sec. 5.206 Penalty**

A person who violates this article shall, upon conviction, be fined. Each day a violation of this article occurs shall be deemed a separate offense.

*Division 2, Permits or Licenses*

**Sec. 5.231 Required; Term**

- (a) No person to sale who has not first obtained a permit from the state, of the type required for the privilege exercised, may do any of the following within the city:
  - (1) Manufacture, distill, brew, sell, possess, import into this state, export from this state, transport distribute, warehouse, or store any liquor or alcoholic beverage;
  - (2) Solicit or take orders for any liquor or alcoholic beverage; or
  - (3) Bottle, rectify, blend, treat, fortify, mix, or process any liquor or alcoholic beverage.
- (b) Upon payment of the applicable tax or fee described in this article to the city, a qualified applicant will be issued a permit or license to engage in business involving alcoholic beverages as authorized by the permit or license from the state held by such applicant; and the permit so issued by the city shall authorize the conduct or license of such business upon the premises described in the permit or license from the state and shall remain in force only so long as such permit or license from the state remains in force.

**Sec. 5.232 Application; Issuance**

Any person desiring a permit or license under this article shall make application therefor to the city. Upon receipt of satisfactory evidence that the applicant has been duly licensed by the state and the applicant meets all zoning and other city requirements, a permit will be issued. A separate permit will be issued for each location.

**Sec. 5.233 Fees**

- (a) There are hereby prescribed and levied occupation taxes or permit fees upon persons carrying on the business of manufacturing, distributing or dealing in alcoholic beverages, as described in this article, in an amount equal to one-half of the taxes or fees levied upon such business by the state.
- (b) The holder of a state retail dealer's on-premises late hours license shall pay to the city, before exercising any privilege by such late hour's license, a fee equal to one-half of the state fee for such late hours license.

- (c) All taxes or fees for each place of business shall be paid in advance in compliance with the fee schedules authorized by the Texas Alcoholic Beverage Code.

**Sec. 5.234 Expiration; Renewal**

All licenses issued under this division shall terminate at midnight on the thirty-first of December of each year, and no new license shall be issued for a longer term than one (1) year. Each person owning a permit or license issued under the terms of this article may, by written application filed with the city not more than thirty (30) days prior to the date of the expiration of a license held by him, renew such permit or license so held by him. Such renewal, accompanied by the prescribed fee, not to exceed one-half of the state fee, shall be processed in accordance with the procedures as established by the city.

**Sec. 5.235 Failure to Display**

It shall be unlawful for any person required to obtain a permit or license hereunder to fail to keep the same displayed in a conspicuous place in the establishment where such business is conducted.

**Sec. 5.236 Cancellation for Violation**

- (a) If any manufacturer, distributor, or dealer in the city shall violate any provision of this article or of the state law applicable thereto, the city council, after due hearing, shall have the right to cancel the permit or license of such offender, after which he shall not manufacture, distribute, or sell alcoholic beverages in the city for one year after cancellation.
- (b) The cancellation of a license applies to the premises, as well as the person. No new permit or license may be issued under this article pertaining to the premises or the person(s) against whom a cancellation order is issued by the city council, for one year from the date of cancellation.

**Sec. 5.237 Assignment; Change of Place of Business**

No license issued under this division shall be voluntarily assigned more than once, and before the assignee of such license can engage in business thereunder, he shall comply with this division as required of the original licensee. If the original licensee or his assignee desires to change the place designated in the license, he may do so by applying to the building official as in the case of the original application for license as provided in this division.

**Sec. 5.238 Records**

The city manager or his designee shall keep a permanent record of all licenses issued under the terms of this division. Such record shall state the name and address of all persons issued licenses, the address of the place of business of the licensee, the classification of the licensee, the date the license was issued, and the amount paid therefor. The city manager or his designee shall also

keep a permanent record of all transfers of licenses and of all licenses cancelled and revoked and the details thereof.

## **ARTICLE 5.300 SKATEBOARDING, SKATES AND BICYCLES**

### **Sec. 5.301 Definitions**

The following words and phrases when used in this article shall, for this article, have the meanings respectively ascribed to them in this section.

*Bicycle.* A device that a person may ride and that is propelled by human power and has two wheels at least one of which is more than 14 inches in diameter. The use of the term "bicycle," when used in the context of this article, shall include "electric bicycle."

*Coaster.* A footboard mounted upon two or more wheels and controlled by an upright steering handle. This device is propelled by the user in usually an upright position.

*Electric Bicycle.* A bicycle that:

- (1) Is designed to be propelled by an electric motor, exclusively or in combination with the application of human power;
- (2) Cannot attain a speed of more than 20 miles per hour without the application of human power; and
- (3) Does not exceed a weight of 100 pounds.

*Roller Skates.* A pair of shoes, usually mounted upon two sets of wheels and is most often propelled by the user in an upright, standing position or kneeling and includes inline skates.

*Scooter.* A footboard mounted upon two or more wheels and controlled by an upright steering handle and is propelled by the user or an internal combustion engine or electric motor.

*Skateboard.* A footboard mounted upon four or more wheels and is usually propelled by the user who sometimes stands, sits, kneels, or lays upon the device while it is in motion.

*To Operate in a Negligent Manner.* The operation of one or more of the above described devices in such a manner as to endanger or be likely to endanger any person or property. Examples of operating in a negligent manner include, but are not limited to, failure to obey all traffic control devices, failure to yield right-of-way to pedestrians and/or vehicular traffic.

### **Sec. 5.302 Traffic Control Devices**

Any person operating a skateboard, roller skates, scooter, bicycle or coasters shall obey the instructions of official traffic control signals, signs, and other devices applicable to vehicles, unless otherwise directed by a police officer.

**Sec. 5.303 Safety**

No skateboard, roller skates, scooter, bicycle or coaster shall be ridden in a negligent manner upon any publicly owned property or way open to the public but shall be operated with reasonable regard for the safety of the operator and other persons.

**Sec. 5.304 Prohibited Areas**

The owner of private property may prohibit the operation of a skateboard, roller skates, scooter, bicycle or coaster on such property only if such owner posts on his or her property a sign that is at least twelve inches by eighteen inches in size, that is visible from all entrances to the property, and that contains at least a notice that the property is private property and that the operation of a skateboard, roller skates, scooter, bicycle or coaster thereon is prohibited. If an owner of private property posts upon the property, in a conspicuous manner, the prohibition against operating a skateboard, roller skates, scooter, bicycle or coaster on the property, no person shall operate a skateboard, roller skates, scooter, bicycle or coaster on the property without the owner's consent.

**ARTICLE 5.400 REGISTERED SEX OFFENDERS**

**Sec. 5.401 Definitions**

For this article, the following terms, words, and the derivations thereof shall have the meaning given herein:

*Minor.* A person younger than seventeen (17) years of age.

*Permanent Residence.* A place where a person abides, lodges, or resides for fourteen (14) or more consecutive days.

*Temporary Residence.* A place where a person abides, lodges, or resides for a period of 14 or more days in the aggregate during any calendar year and which is not the person's permanent residence, or a place where a person routinely abides, resides, or lodges for a period of 4 or more consecutive days or nonconsecutive days in any month and which is not the person's permanent residence.

**Sec. 5.402 Offenses and Evidentiary Matters**

- (a) For each person required to register on the Texas Department of Public Safety's Sex Offender Database (the database) because of a violation involving a victim who was a minor, it is unlawful for that person to establish a permanent residence and/or a temporary residence in the city within 1,000 lineal feet of any premises where children commonly gather, including a public or private school, day-care facility, public park, playground, public or private youth center, public swimming pool, or video arcade facility. For the purposes of this article, planted street medians shall not be considered public parks.

- (b) For the purpose of determining the minimum distance separation, the requirement shall be measured by following a straight line from the outer property line of the permanent or temporary residence to the nearest property line of the premises where children commonly gather, as described herein, or in the case of multiple residences on one property, measuring from the nearest wall of the building or structure occupied or the parking/driveway, whichever is closer to the nearest property line of the premises where children commonly gather, as described herein. A map identifying prohibited areas shall be produced and maintained by the city police department and shall be available to the public upon demand. This map shall be updated on an annual basis.
- (c) It shall be prima facie evidence that this article applies to a person if that person's record or records pertaining to that person, appears on the database and the database indicates that the victim was a minor.

#### **Sec. 5.403 Culpable Mental State**

Neither allegation nor evidence of a culpable mental state is required for the proof of an offense defined by this article, and any offense shall be considered a strict liability offense.

#### **Sec. 5.404 Property Owners Prohibition from Renting Real Property**

It is unlawful to let or rent any place, structure or part thereof, manufactured home, trailer, or other conveyance, with the knowledge that it will be used as a permanent or temporary residence by any person prohibited from establishing such permanent or temporary residence pursuant to the terms of this article. If such place, structure or part thereof, manufactured home, trailer or other conveyance is located within 1,000 lineal feet, as defined in Section 5.402(b), of any premises where children commonly gather, including a playground, public or private school, day-care facility, video arcade facility, public or private youth center or public swimming pool, as those terms are defined in this article and in Article 481.134 of the Health and Safety Code of the state, and same is leased or rented to a registered sex offender, then in that case, both the owner of the real property and the registered sex offender are in violation of this article.

#### **Sec. 5.405 Affirmative Defense**

- (a) It is an affirmative defense to the prosecution of an offense under this article that any of the following conditions apply.
- (b) The person required to register on the database established his/her permanent or temporary residence in the city prior to the effective date of this article and has complied with all sex offender registration laws of the state.
- (c) The person required to register on the database is a minor or was a minor when he/she committed the offense requiring such registration and was not convicted as an adult.

- (d) The premises where children commonly gather was opened or began to be used as such after the person established his/her permanent or temporary residence, and the person has complied with all sex offender registration laws of the state.
- (e) The information in the database pertaining to the individual is incorrect and, if corrected, this article would not apply to that person.

**Sec. 5.406 Penalty**

Any person, firm or corporation violating the provisions of this article shall, upon conviction, be punished by a fine not to exceed the sum of five hundred dollars and no cents (\$500.00) for each offense; and each day of such violation shall be deemed to constitute a separate offense.

**ARTICLE 5.500 NOISE RESTRICTIONS**

**Sec. 5.501 Prohibited; Generally**

It shall be unlawful for any person to make, continue or cause to be made or continued any loud, unnecessary or unusual noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others, within the city.

**Sec. 5.502 Horns, Warning Devices**

The sounding of any horn or other warning device on any automobile, motorcycle or other vehicle on any street or public place of the city, except as a danger warning; the creating by means of any such warning device of any unreasonably loud or harsh sound; the sounding of any such device for any unnecessary and unreasonable period of time; and the use of such warning device when traffic for any reason is held up shall be deemed a violation of this article.

**Sec. 5.503 Radios, Phonographs, Etc.**

Using, operating or permitting to be played, used or operated, any radio receiving set, television set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto shall be deemed a violation of this article. The operation of any such set, instrument, phonograph, machine or device in such a manner as to be plainly audible at 50 feet from the building, structure or vehicle in which it is located shall be prima facie evidence of a violation of this section.

**Sec. 5.504 Yelling, Shouting**

Yelling, shouting, hooting, whistling or singing on the public streets, particularly between the hours of 10:00 p.m. and 7:00 a.m., or at any time or place to annoy or disturb the quiet, comfort

or repose of persons in any office, or in any dwelling, hotel or other type of residence, or of any persons in the vicinity shall be deemed a violation of this article

**Sec. 5.505 Animals, Fowl**

The keeping of any animal or bird which by causing frequent or long-continued noise shall disturb the comfort or repose of any person in the vicinity shall be deemed a violation of this article.

**Sec. 5.506 Defect in Vehicle or Load**

The use of any automobile, motorcycle or vehicle so out of repair, so loaded or in such manner as to create loud and unnecessary grating, grinding, rattling or other noise shall be deemed a violation of this article.

**Sec. 5.507 Loading, Unloading, Opening Boxes**

The creating of a loud and excessive noise in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers shall be deemed a violation of this article.

**Sec. 5.508 Pile Drivers, Hammers, Etc.**

The operation between the hours of 10:00 p.m. and 7:00 a.m. of any pile driver, steam shovel, pneumatic hammer, derrick, steam or electric hoist or other appliance, the use of which is attended by loud or unusual noise, shall be deemed a violation of this article.

**Sec. 5.509 Blowers**

The operation of any noise-creating blower or power fan or any internal combustion engine, the operation of which causes noise due to the explosion of operating gases or fluids, unless the noise from such blower or fan is muffled and such engine is equipped with a muffler device enough to deaden such noise, shall be deemed a violation of this article.

**Sec. 5.510 Screeching of Tires**

The operation of any motor vehicle in such a way as to cause the tires thereof to screech except where the same is necessarily caused in an emergency in an attempt by the operator to avoid an accident or the causing of damage or injury shall be deemed a violation of this article.

**Sec. 5.511 Engine Brakes**

Utilization of engine braking system (aka "Jake Brakes") is strictly prohibited within the City of Plum Grove.

**Sec. 5.512 Operation of Power Mowers; Construction, Demolition--Restricted**

It shall be unlawful for any person to operate a motor-driven or power-operated lawn mower, or to engage in any construction or demolition work within the city between the hours of 10:00 p.m. and 7:00 a.m. the following day.

**Sec. 5.513 Same-Emergency Permit**

In the event of an emergency, a permit may be issued exempting any person from Section 5.511 for any period of time specified on the face of the permit. The permit may be issued free of charge by the police department.

**Sec. 5.514 Same-Government Agencies, Utilities**

Section 5.511 shall not apply to emergencies of any governmental subdivision or any public utility.

**Sec. 5.515 Enforcement and Penalties**

A violation of this article shall be declared a class "C" misdemeanor punishable by up to a \$500.00 fine.

**ARTICLE 5.600 RESTRICTED SMOKING MATERIALS**

**Sec. 5.601 Definitions**

Restricted Smoking Material.

- (1) Any substance, however marketed, which can reasonably be converted for smoking purposes whether it is presented as incense, tobacco, herbs, spices or any blend thereof if it included any of the following chemicals or a comparable chemical:
  - (A) Salvia divinorum or salvinorin A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture or preparation of such plant, its seeds or extracts;
  - (B) 2-[(1R, 3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol (also known as CP47, 497) and homologues;
  - (C) (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, 10a-tetrahydroberzo [c] chromen-1-ol) (also known as HU-211 or Dexamabinol);
  - (D) 1-pentyl-3-(1-naphthoyl) indole (also known as JWH-018);

- (E) 1-butyl-3-(1-naphthoyl) indole (also known as JWH-073); or
  - (F) 1-pentyl-3-(4-methoxynaphthoyl) indole (also known as JWH-081).
- (2) Products containing some of the above substances are currently being marketed under the following commercial names:
- “K-2,” “K-2 Summit,” “K-2 Sex,” “Genie,” “Dascents,” “Zohai,” “Sage,” “Spice,” “KO Knock-Out 2,” “Spice Gold,” “Spice Diamond,” “Yucatan Fire,” “Solar Flare,” “Pep Spice,” “Fire N’ Ice,” and “Salvia Divinorum.”
- (3) It is anticipated by the council that new products will be marketed under different names but will be subject to this definition if they contain any of the chemical components set forth above.

*Restricted Smoking Paraphernalia.* Any paraphernalia, equipment or utensil that is used or intended to be used in ingesting or inhaling illegal smoking materials and may include:

- (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 chiller.

**Sec. 5.602 Purpose**

The purpose of this section is to prohibit the sale or delivery of restricted smoking materials as defined herein to any individual below twenty-one (21) years of age within the city limits and ETJ and to prohibit the possession of restricted smoking materials by any individual below

twenty-one (21) years of age within the city limits and ETJ. Any form of delivery to include a simple gift constitutes a violation of this article.

**Sec. 5.603 Sale, Delivery, Offer, or Gift**

It shall be unlawful for any person to sell, offer to sell, deliver to or to give any restricted smoking material to anyone below twenty-one (21) years of age.

**Sec. 5.604 Use or Possession of Restricted Smoking Material**

It shall be unlawful for any person below twenty-one (21) years of age to have in their possession or to use restricted smoking materials within the corporate limits of the city.

**Sec. 5.605 Use or Possession of Restricted Smoking Paraphernalia**

It shall be unlawful for any person to have in their possession any restricted smoking paraphernalia with the intent to use it, to ingest it, inhale or otherwise consume restricted smoking material if they are below twenty-one (21) years of age. If an individual below twenty-one (21) years of age is found in possession of this type of paraphernalia it will be a violation of this article if appropriate forensic testing is done on the paraphernalia and traces of restricted smoking material are present on the device.

**Sec. 5.606 Location of Sale of Restricted Smoking Material and Restricted Smoking Paraphernalia**

- (a) It shall be unlawful for any person to sell, offer to sell, deliver or to give any restricted smoking material or restricted smoking paraphernalia to any person within 1,000 feet of the following:
- (1) A church.
  - (2) A public or private elementary or secondary school.
  - (3) A licensed day-care center.
  - (4) A public park, recreation center or water park.
  - (5) A public library.
- (b) For purposes of this section, measurement shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the building or structure used for purpose of selling or delivering the restricted smoking material or restricted smoking paraphernalia to the nearest property line of the premises of a church, public or private elementary or secondary school, licensed day-care center, public library, public park, recreation center, or water park.

**Sec. 5.607 Defenses to Prosecution**

- (a) It shall be a defense to prosecution for a violation of this section if the use of the restricted smoking material is at the direction or under a prescription issued by a licensed physician or dentist authorized to prescribe controlled substances within the state.
- (b) It shall be a defense to prosecution under the terms of this section if an individual charged with a violation can provide proper and complete historic documentation that the use of such materials is a portion of a religious undertaking or activity of a religious denomination in which they have long standing historic membership supported by documentation from clergy or spiritual leader recognized by the state.

# **CHAPTER 6**

## **PERSONNEL & ADMINISTRATION**

### **ARTICLE 6.100 VOLUNTEER POLICE**

#### **Sec. 6.101 Mayor to Appoint Volunteer Police Officers**

The mayor of the City of Plum Grove is hereby authorized, directed and empowered to appoint volunteer special police officers, who, when certified by the chief of police to have been adequately trained, shall thereafter be commissioned and empowered to serve in the capacity of auxiliary police officers under the direction and supervision of the chief of police.

#### **Sec. 6.102 Authority of Volunteer Police Officers**

Volunteer auxiliary policemen appointed and commissioned under the provisions of this article shall have the full authority of police officers to protect the lives, welfare and property of the citizens of Plum Grove.

#### **Sec. 6.103 Subject to Call in Cases of Public Emergency**

Volunteer auxiliary policemen shall be subject to call in cases of public emergency and may be placed on the police department payroll and given a badge. All those holding commissions as volunteer auxiliary officers shall be subject to call of the mayor and the chief of police in case of a riot, flood, fire or other public emergency. Upon the occurrences of any such emergency, the mayor shall also have the power to place any volunteer auxiliary policeman on the regular police department payroll for a period not to exceed thirty (30) days, and in such cases the chief of police shall issue to such volunteer auxiliary policeman a regular policeman's badge to be used by such officer for the period of time that he is serving in the police department during such emergency.

#### **Sec. 6.104 Subject to Cancellation at any Time**

The commission of any volunteer auxiliary police officer shall be subject to cancellation at any time by the mayor or the chief of police for any cause that both or either of them deem enough.

#### **Sec. 6.105 Mayor Authorized to Prepare Rules and Regulations**

The mayor is hereby authorized, directed and empowered to prepare and promulgate such written rules and regulations and revisions and amendments thereto as may, in his discretion, be necessary for the conduct and regulation of volunteer auxiliary police officers; provided, however, that no such rule or regulation shall be contrary to the law of the United States, the State of Texas, the Home Rule Charter of the City of Plum Grove or this article.

# CHAPTER 7

## SUBDIVISION DEVELOPMENT

### ARTICLE 7.100 SUBDIVISION AND DEVELOPMENT CODE

#### **Sec. 7.102 Preamble**

This article establishes comprehensive development and land use regulations for the City of Plum Grove, Texas.

#### **Sec. 7.103 Purpose**

Pursuant to the Texas Local Government Code, Chapters 211, 212 and 213 of the State of Texas, the city council hereby enacts into law the following Plum Grove Development Code of the City of Plum Grove, Texas, for the purposes of promoting the health, safety and general welfare of the present and future inhabitants of the City of Plum Grove, Texas; improving the city's appearance; lessening congestion in the streets; furthering traffic safety; securing safety from fire, panic and other dangers; providing adequate light and air; preventing the overcrowding of land; avoiding both undue concentration of population and urban sprawl; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; protecting property against blight and depreciation; encouraging the most appropriate use of land, buildings and other structures throughout the city; securing economy in government expenditures; and for other purposes, all in accordance with the Plum Grove Comprehensive Master Plan of the city.

#### **Sec. 7.104 Title**

These regulations shall hereafter be known, cited and referred to as the "Plum Grove Development Code" for the City of Plum Grove.

#### **Sec. 7.105 Authority**

This article is adopted under the authority of the Constitution and laws of the State of Texas and the Plum Grove City Charter.

### ARTICLE 7.200 OFFICIAL MAPS AND PLANS

#### **Sec. 7.201 Generally**

(a) The following maps and plans are adopted contemporaneously with the text of this article and shall be considered an integral part of this article and shall be used:

- (1) City of Plum Grove Comprehensive Master Plan;

- (2) Future Land Use Map/Zoning Map adopted as an integral component of the City of Plum Grove Comprehensive Master Plan;
  - (3) Fire zone map;
  - (4) Future drainage plan and map;
  - (5) Future thoroughfare plan and map;
  - (6) Future parks and recreation plan and map; and
  - (7) Future water and wastewater plans and maps.
- (b) Notwithstanding any requirements designated within the fire zone, to the contrary, the provisions of this article establish the procedures to be followed in connection with regulations governing the use and development of land unless no provisions are established within this article then the fire zone map requirements shall prevail.

#### **ARTICLE 7.300 SUBDIVISIONS**

##### **Sec. 7.301 Policy**

- (a) It is hereby declared to be the policy of the City of Plum Grove to consider the subdivision of land and its subsequent development to be subject to control by the city pursuant to its general plans for the orderly, planned, efficient and economical development of the city. These regulations have been developed in accordance with a comprehensive planning process to provide for the city's orderly growth and development.
- (b) Land shall not be subdivided unless it is of such character that it can be used safely for its intended purpose, without endangering health or causing peril from fire, flood or other menace; and land shall not be subdivided until such public facilities and improvements which are required, are in place, or proper provision has been made for necessary improvements such as drainage, water, sanitary sewer, transportation facilities, and other municipal services.
- (c) Existing and proposed public improvements shall conform to the intent of and be properly related to the policies of the City of Plum Grove's Comprehensive Master Plan, Official Land Use Map, general plans for such public improvements and the capital improvements program of the city. It is intended that this article shall supplement and facilitate the enforcement of the provisions and standards contained in the city's general plans for streets, alleys, parks, drainage facilities, and public utility facilities; including building and housing codes, zoning ordinances, the comprehensive master plan, master thoroughfare plan, city engineering design standards, and all other related sections of the Plum Grove.

**Sec. 7.302 Purpose**

The subdivision of land is the first step in the process of urban development. The arrangement of land parcels in the community for residential, commercial, and industrial uses, and for streets, alleys, schools, parks and other public purposes will determine to a large degree the conditions of health, safety, economy, and amenity that prevail in the urban area. The quality of these conditions is of public interest. This article and the standards for the subdivision and improvement of land for urban use makes provisions for adequate light, air, open spaces, drainage, transportation, public utilities, and other needs, to insure the development and maintenance of a healthy, attractive and efficient community that provides for the conservation and protection of its human and natural resources. It is the purpose of this article to implement the goals, objectives and policies of the city's comprehensive planning process to promote orderly growth and development.

**Sec. 7.303 Jurisdiction**

This article shall govern all subdivisions of land within the corporate limits of the city and within the city's extraterritorial jurisdiction (ETJ), as defined herein, and pursuant to Section 42.021 of the Texas Local Government Code; and shall govern other land development within the corporate limits of the city as authorized under the terms of the Texas Local Government Code.

**Sec. 7.304 Application**

- (a) Land Included. Except where otherwise specifically provided for in this article, all the provisions of this article shall include, but not limited to, the following lands located within the territorial and extraterritorial jurisdiction of the city:
  - (1) Any tract of land which has not been recorded by plat in the plat records of Liberty County, Texas, and which has been sold, leased, or otherwise subdivided or partitioned from another tract of land.
  - (2) Any tract of land which has been recorded as a lot or block by plat in the plat records of Liberty County, Texas, prior to and upon which no development has been constructed or placed prior to the effective date of this article.

**Sec. 7.305 Guarantee of Improvements**

- (a) Improvements are to be installed in accordance with the construction plans approved by the city. The subdivider or developer may submit a construction phasing.
- (b) All required improvements shall be made by the developer, at his/her expense, without reimbursement by the city, except where the city may participate in a reimbursement contract on certain public improvements, as determined on a case-by-case basis.

**Sec. 7.306 One Year Maintenance Period**

To qualify for acceptance of maintenance of improvements, all public improvements proposed for acceptance by the city must be maintained by the developer or subdivider for a minimum of one (1) year after the date of construction completion. Such guarantee of improvements shall be in the form of an approved financial instrument by the City.

**Sec. 7.307 Acceptance into the City Public Improvement Maintenance System**

- (a) Requests for city acceptance to public improvements to be dedicated shall be directed to the city engineer or representative.
- (b) The city engineer or representative will perform an inspection. The city engineer or representative will develop and issue a composite list of deficiencies. The inspection will cover all the items noted above for the construction completion inspection.
- (c) After the deficiencies are corrected, the city engineer or representative will issue a recommendation to the city council with public improvement information, bond number, amount and bond release information.
- (d) Upon approval and recommendation by the city engineer or representative, the city council will consider accepting roads and streets into the city public improvement maintenance system.

**Sec. 7.308 Conditions of Acceptance**

- (a) Acceptance of the public improvements into the city maintenance system will only constitute acceptance of roads, streets, bridges, stormwater drainage systems, water systems, sanitary sewer systems and their related appurtenances.
- (b) Detention facilities will not be accepted for maintenance by the City of Plum Grove. Only 100-year capacity open ditch type of drainage channels meeting all the requirements as stated within this article will be considered for acceptance into the maintenance system.

**Sec. 7.309 Release of Bond**

The bond will be released when all applicable public improvements are accepted into the city public improvement maintenance system.

**Sec. 7.310 Cost of Improvements and City Participation**

The applicant shall make all required improvements, at his expense, according to the officially adopted master plans, without reimbursement by the city, except for certain oversized or city participation provisions of this article as may be expressly authorized in advance of construction of improvements by the city council and paid as funds are available. Any requests by the developer for payment shall be made in writing and shall be presented to the development review committee for study. The development review committee along with other relevant city

departments shall present findings, along with recommendations for payment, to the city council for final approval.

## **ARTICLE 7.400 ENGINEERING AND CONSTRUCTION STANDARDS**

### **Sec. 7.401 Purpose and Intent**

The purpose of good subdivision and site design is to create a functional and attractive development, minimize adverse impacts, and to ensure a project will be an asset to the community. To promote this purpose, the subdivision shall conform to the improvement standards and design principles of this article. Improvement standards are intended to address the specific minimum engineering standards that a development must meet or the methods of construction that must be adhered to. Design principles address the planning and laying out of a development. These principles and standards are designed to result in a well-planned community without adding unnecessarily to the cost of development. They are based on scientific principles, sound professional practice and publicly adopted goals, objectives and policies of the City of Plum Grove. It is the intent of this article to further the health, safety, efficiency, service equity and attractiveness of the community.

### **Sec. 7.402 General Improvement Standards**

- (a) In addition to the requirements established herein, all subdivisions shall comply with the following statutes, ordinances, rules and regulations:
- (1) All applicable local, state and federal ordinances, regulations, rules and statutes;
  - (2) All applicable city codes, including but not limited to Building and Construction and Planning and Zoning, Standard Construction Specifications;
  - (3) Comprehensive master plan and all general plans of the City of Plum Grove;
  - (4) The rules of the Plum Grove City/County Department of Health, Texas Commission on Environmental Quality, Corps of Engineers, railroad companies, pipeline companies and other applicable agencies;
  - (5) The rules of the Texas Department of Transportation if the subdivision or any lot therein abuts a state-maintained roadway;
  - (6) The applicable standards and regulations adopted by all boards, agencies, and officials of the municipality relating to the subdivision of land; and
- (b) All improvements shall be designed and installed to provide for a logical system of utilities, drainage and streets, and to create continuity of improvements for the development of adjacent properties.

**Sec. 7.403     General Design Principles**

- (a) It is intended that the urban area be designed as a group of integrated residential neighborhoods with appropriate commercial and industrial and public facilities. Space for religious, recreational, educational and shopping facilities to serve the residents of the neighborhood should be provided and designed as an integral part of each neighborhood, as appropriate.
- (b) The size of lots, blocks and other areas for residential, commercial, industrial, public and all other land uses should be designed to provide adequate light, air, open space, landscaping and off-street parking and loading facilities.
- (c) The arrangement of lots and blocks and the street system should be designed to make the most advantageous use of topography and natural physical features. The general arrangement of streets should conform to the functional street classification system, as shown in Figure 1 [2], under Article 7.100, and any thoroughfare plan for the city. Tree masses, large individual trees and plant materials should be preserved if possible. The system of roadways and sidewalks and the lot layout should be designed to take advantage of the visual qualities of the area.
- (d) Minimum standards for development are contained in these regulations, and in other codes and ordinances. The city's general plans may express other policies designed to achieve a high quality of development in the urban area. If only the minimum standards are followed, a standardization of development will occur. Subdivision design should be of a quality to carry out the purpose and spirit of the policies expressed in the general plans and in this article, rather than be limited to the minimum standards required.

**Sec. 7.404     Markers and Monuments**

The subdivider shall provide reference monuments and/or markers in the subdivision by a registered land surveyor, licensed as such in the State of Texas, based on National Geodetic Vertical Datum (NGVD), placed at the following locations:

- (1) Permanent Markers. Permanent markers consisting of a three-fourths-inch (3/4") iron rod or larger, 36 inches in length, and shall be placed, flushed with the finished grade, at all corners of the block lines, the point of intersection of curves and tangents of the subdivision.
- (2) Concrete Monuments. One benchmark for each ten (10) acres of property of [or] fraction thereof shall be permanently installed in an approved manner, with its location and the elevation as shown on the plat. Permanent benchmarks shall be five-foot-long (5') concrete posts six (6") inches in diameter with the top to be at least twelve (12") inches below the finished grade.

- (3) Lot Markers. Shall be one-half-inch (1/2") metal rods, at least twenty-four (24") inches in length, placed at each corner of all lots, flushed with the average ground elevation, or they may be countersunk if necessary to avoid being disturbed.

**Sec. 7.405 Private Utilities**

- (a) Generally. Underground utilities shall be in dedicated utility easements or in street rights-of-way, as appropriate. For the purposes of this section, a new residential development is defined as a new subdivision of land into residential lots and blocks, which includes the creation or extension of streets, utilities, and other related improvements.
- (b) Placement. The placement and separation of the various utilities within a designated easement, except where modifications are approved by the city engineer. If a sanitary sewer, storm sewer or water main is to be placed in an easement, the location of the main in relation to the other utilities shall be determined by the city engineer and directors of water and wastewater and streets and drainage, as appropriate.
- (c) Perimeter Easements. In a perimeter easement where overhead primary electric lines and/or feeders are proposed, such overhead power poles shall be located as near as possible to the perimeter property line of the subdivision.
- (d) Right-of-Way. The placement of any utilities within a street right-of-way shall conform to the city's engineering design standards and specifications and shall be approved by the city engineer or representative.

**Sec. 7.406 Easements**

- (a) Generally.
- (1) The subdivider shall dedicate easements to the public that shall allow every lot within a subdivision to have access to all available, essential utilities (municipal and franchised). Utilities include water, sewer, natural gas, electric, cable television and telephone. Storm sewer is not a utility. All new utilities shall be placed and constructed within designated easements or upon determination by the city engineer or representative, street rights-of-way (ROW).
- (2) No structure, foundation, slab or other pertinent improvement shall be placed within any dedicated public easement without written permission from the city.
- (b) Easement Restrictions. The following statement of restrictions shall be placed on the plat whenever easements are dedicated for public use:

PUBLIC EASEMENTS

All public easements denoted on this plat are hereby dedicated to the use of the public. Any public utility, including the City of Plum Grove, shall always have the right of ingress and egress to and from and upon said easements for construction, reconstruction, inspection, patrolling, maintaining and adding to or removing all or parts of its respective system without the necessity at any time of procuring the permission of the property owner. Any public utility including the City of Plum Grove shall have the right to move and keep moved all or part of any building, fences, trees, shrubs, other growths or improvements that in any way endanger or interfere with the construction, maintenance or efficiency of its respective systems on any of the easements shown on this plat. Neither the City of Plum Grove or any public utility shall be responsible for replacing or reimbursing the property owner due to removal or relocation of any obstructions in the public easements.

(c) Locations and Widths of Public Easements.

- (1) Unless otherwise noted in the city's development code, easements shall be provided at the front of all lots unless otherwise determined by the city engineer or representative. Lots in minor plats or other plats in developed areas may be exempt from this requirement, as determined by the director of planning. Front easements shall be at least fifteen (15) feet in width; however, larger widths shall be required as pipe size increases as specified in this article.
  - (2) When an easement is required along a boundary between a current and future phase of a proposed subdivision, one of the following two options shall be allowed: either one-half (1/2) of the easement shall be dedicated on the final plat of the current phase, and one-half (1/2) shall be dedicated by separate instrument; or a ten (10) foot easement shall be dedicated on the final plat of the current phase and a five (5) foot easement dedicated with the future phase.
  - (3) If conditions exist which make it impractical to serve certain lots with utilities from the front easements, easements may be required alongside or rear lot lines; and such easements should be centered on the lot lines. The width of a side yard easement may be reduced to a total width of ten (10) feet, centered on the lot lines, upon approval of the directors of engineering and planning, and all affected franchised utility companies.
- (d) Street Lights. Where street lights are proposed, street light easements necessary to serve such lights shall be provided. Street light easements shall be a minimum of five (5) feet in width and shall only be utilized for street light wiring.
- (e) Additional Easements. Aerial easements or easements of greater widths than specified above may be required where it is deemed necessary by the directors of engineering and water/wastewater. Wider easements may be necessary for the extension of utility mains, storm sewers and drainage, or the accommodation of utilities in other unique situations.

- (f) Private Easements. When private easements exist, which can potentially interfere with a proposed public dedication or easement, the subdivision should be designed to minimize the number and extent of such conflicts.
- (g) Pipeline Easements. A pipeline carrying petroleum products shall be in an easement of enough width, as determined by the appropriate regulating agency. In addition, a building setback line shall be established twenty-five (25) feet from the centerline pipeline on each side of the pipeline. If such pipeline easement exceeds fifty (50) feet in width, the building setback line shall be established at the edge of the easement.
- (h) Drainage/Floodway Easements. Drainage easements shall be provided along all natural and manmade drainage channels and floodways which drain two (2) or more lots or tracts of land according to the following criteria:
  - (1) Natural Drainage Channels. Storm drainage easements shall be provided along existing or proposed open channels with enough width for the watercourse to handle the flow from the applicable frequency storm plus a minimum of twenty (20) feet on each side beyond top of bank, for ingress and egress of maintenance equipment, for clearance from fences, for maintenance of the channel bank, and for adequate slopes necessary along the bank.
  - (2) Enclosed Drainage Systems. Where enclosed drainage systems are provided that are not within or adjacent to a public street, storm drainage easements of twenty (20) feet minimum width shall be provided. Easements shall be centered on the system. If necessary, the larger easements shall be provided. Easements shall be wide enough to encompass the system plus provide ingress and egress for future maintenance operations.
- (i) Floodplain Restriction. The following provisions shall be in conjunction with 'Flood Damage Prevention Regulations'. Whichever provision is most strict, the stricter shall prevail.
  - (1) Floodplain restrictions shall be provided where necessary along natural drainageways and lakes. Floodplain restriction shall encompass the area between the dedicated channel and the water surface elevation resulting from a one-hundred-year (100-yr.) design frequency storm. The area encompassing the dedicated channel and the floodplain restriction shall be referred to as the 100-year floodplain. The width of the floodplain shall be substantiated by a drainage study, drainage calculations or other criteria submitted to and approved by the city.
  - (2) Within the one-hundred-year (100-yr.) floodplain, storm drainage easements should be provided that contain stormwater resulting from the one-hundred-year (100-yr.) frequency storm less the amount of stormwater carried in the enclosed system, if any. The width of the easements shall be substantiated by a drainage

study, drainage calculations or other criteria submitted to and approved by the city.

- (3) The following restrictions shall be placed in the dedication instrument:

#### FLOODPLAIN RESTRICTION

No construction, without the written prior approval of the City of Plum Grove shall be allowed within a floodplain, and then only after detailed engineering plans and studies show that no flooding and no obstruction to the natural flow of water will result. If construction is permitted, all finished floor elevations shall be a minimum of two-foot (2') above the one-hundred-year (100-yr.) flood elevation.

The existing creeks, lakes, reservoirs or drainage channels, not within a public easement, traversing along or across portions of this subdivision, shall always remain as an open channel and shall be maintained by the individual owners of the lot or lots that are traversed by or adjacent to the drainage courses along or across said lots. The City of Plum Grove shall not be responsible for the maintenance and operation of said private drainageways or for the control of erosion. Each property owner shall keep the natural drainage channels traversing or adjacent to the property clean and free of debris, silt or any substance which would result in unsanitary conditions. The city shall have the right of ingress and egress for inspection and supervision of maintenance work by the property owner and to alleviate any undesirable conditions that may occur. If the natural drainage channels are subject to stormwater overflow and natural bank erosion, the City of Plum Grove shall not be liable for damages of any nature resulting from the occurrence of these natural phenomena, nor resulting from a failure of any structure(s) within the natural drainage channels. The natural drainage channel crossing each lot is shown by the floodplain easement line as shown on the plat.

- (j) Emergency Access Easements. Emergency access (fire lane) easements shall be provided as required by the city. These easements shall have a minimum width of twenty-eight feet (28') and a minimum height clearance of fourteen feet (14'). Any emergency access easement shall either connect at each end to a dedicated public street or be provided with a turnaround having a minimum diameter of eighty feet (80') with an additional distance of ten feet (10') on all sides clear of permanent structures. The driving surface within emergency access easements shall be designed and constructed according to standards established for local public streets. All structures shall be located within one hundred fifty feet (150') of a dedicated and improved emergency access easement or public street.

#### **Sec. 7.407 Development Requirements - Commercial**

- (a) General Commercial and Office Uses.
- (1) Minimum Lot Width. 100 feet.
  - (2) Minimum Lot Depth. 200 feet.

- (3) Minimum Front Yard Setback. 25 feet.
- (4) Minimum Interior Side Yard Setback. 5 feet, except where abutting existing or proposed residential uses, in which event the minimum interior side setback is 20 feet. When abutting a commercial or industrial land use with a common wall, a zero (0) setback will be allowed provided fire suppression requirements are achieved.
- (5) Minimum Exterior Side Yard Setback.
  - (A) Abutting an expressway or arterial street: 25 feet.
  - (B) Abutting other streets: 20 feet.
- (6) Minimum Rear Yard Setback. 10 feet, except where abutting existing or proposed residential uses, in which event the minimum rear yard setback is 20 feet.

(b) General Guidelines, Commercial/Light Commercial.

- (1) Existing Structures. When an existing parcel with an existing commercial structure is being platted to meet the requirements of this article, and such parcel does not conform to the lot size, width, depth, or setback requirements listed above, such requirements may be reduced, subject to the recommendation of the director of planning and approval of the planning commission.
- (2) Architectural Standard-New Construction. All commercial facilities shall be constructed in accordance with accepted architectural standards. In general, new construction the commercial district shall be constructed with a façade reminiscent of historic town square developments of early Texas. Metal buildings and modern construction methods and materials shall be acceptable with front wall parapets to conceal roof top equipment, etc. Refer to architectural standards guidelines document for additional details on acceptable construction, architecture, and colors.
- (3) Filling Station Pump Islands and Canopies. Canopies over filling station pump islands shall be set back a minimum of twenty-five (25) feet from any street right-of-way line, and filling station pump islands shall be set back a minimum of twenty-five (25) feet from any street right-of-way line.
- (4) Screening and Buffering. Any commercial use adjacent or abutting any side to any residential or multifamily use shall provide a solid privacy fence consisting of treated wood, masonry or combination thereof, excluding barbwire, mesh and plastic slats, at a maximum height of six (6) feet tall along the sides and rear of said lot lines and a maximum height of three (3) feet in the along the front lot line and evergreen shrubs planted every three feet to grow to a minimum of six (6) feet along the exterior of [the] fence line on all sides. Such screening shall shield

any visibility to any nonresidential storage or any other ancillary byproduct to such use. Such planting may be excluded alongside and rear lot lines upon determination by the director of planning; however, all landscaping shall be maintained throughout the existence of such commercial use.

- (A) Dumpsters. All commercial dumpsters shall be screened from public visibility along (3) three sides or all sides with one side including a detachable locking mechanism in accordance with the screening requirements stated herein.

#### **Sec. 7.408 Development Requirements - Industrial**

(a) General Industrial Use. The following guidelines shall apply to all industrial development:

- (1) Minimum Lot Width. 100 feet.
- (2) Minimum Lot Depth. 200 feet.
- (3) Minimum Front Yard Setback. 25 feet.
- (4) Minimum Interior Side Yard Setback. 5 feet, except where abutting existing or proposed residential uses, in which event the minimum interior side setback is 20 feet.
- (5) Minimum Exterior Side Yard Setback.
  - (A) Abutting an arterial street: 25 feet.
  - (B) Abutting other streets: 20 feet.
- (6) Minimum Rear Yard Setback. 10 feet, except where abutting existing or proposed residential uses, in which event the minimum interior rear setback is 20 feet.

(b) General Guidelines, Industrial.

- (1) Minimum Rear Yard Setback. 10 feet, except where abutting existing or proposed residential uses, in which event the minimum rear yard setback is 20 feet.
- (2) Existing Structures. When an existing parcel with an existing industrial structure is being platted to meet the requirements of this article, and such parcel does not conform to the lot size, width, depth, or setback requirements listed above, such requirements may be reduced, subject to the recommendation of the director of planning and approval of the planning commission.

- (3) Screening and Buffering. Any industrial use adjacent or abutting any side to any residential or multifamily use shall provide a solid privacy fence consisting of treated wood, masonry or combination thereof, excluding barbwire, mesh and plastic slats, at a maximum height of six (6) feet tall along the sides and rear of said lot lines and a maximum height of three (3) feet in the along the front lot line and evergreen shrubs planted every three feet to grow to a minimum of six (6) feet along the exterior of [the] fence line on all sides. Such planting may be excluded alongside and rear lot lines upon determination by the director of planning; however, all landscaping shall be maintained throughout the existence of such commercial use.
  - (A) Dumpsters. All commercial dumpsters shall be screened from public visibility along (3) three sides or all sides with one side including a detachable locking mechanism in accordance with the screening requirements stated herein.

**Sec. 7.409 Alternative Water and Wastewater Facilities**

- (a) Basic Policy. Alternative water and sewer systems will be considered for developments that are in areas that are impractical or economically infeasible to connect to the city's centralized water distribution and/or wastewater collection system. The key factors that will be evaluated to determine the city's acceptance of these alternative water and sewer systems are:
  - (1) General compliance with the city's comprehensive land use plan and water distribution and/or wastewater collection system master plans.
  - (2) The severity of the economic difference between the collective costs of the alternative water and/or sewage disposal systems necessary to serve the entire development and the costs to extend water and/or wastewater lines to the development.
  - (3) The suitability of the soil conditions, topography, and other environmental factors affecting the development for the installation of the individual on-site sewage disposal systems.
  - (4) The total number of lots, size of lots and overall density of the development.
  - (5) The impact on surrounding properties and environmentally sensitive areas adjacent to the development and the availability of buffer areas.
  - (6) The impact on surrounding properties' ability to develop with suitable access to water and/or sanitary sewer facilities.
  - (7) The development fails to meet "Mandatory Water and Sewer Connections" of the City of Plum Grove Code of Ordinances.

- (b) Approval Process. All alternative water and sewer systems must be approved by the city council subject after recommendation by the director of water and sewer. All alternative systems shall be designed and operated in strict compliance with applicable permits, ordinances, regulatory guidance and regulations including the EPA, TCEQ, Texas Health Department and the city. Alternative water and sewer systems will be considered for development under the following criteria herein.
- (c) Individual Water Wells. Developments may be approved with individual water well facilities according to the following criteria:
- (1) The premise[s] upon which such structure is located is more than 1,000 feet from any city water main or appurtenances. The distance shall be measured as the straight-line horizontal distance between the end of the existing city water main or appurtenance to the nearest property boundary of the lot to be served.
  - (2) Water wells are not utilized in any commercial sale of the water.
  - (3) Water well operation and quality meet the minimum requirements of TCEQ and the provisions of the city code.
  - (4) An applicant for approval of individual water well shall submit the following evidence to the director of water and sewer:
    - (A) Utility availability application;
    - (B) Water quality tests;
    - (C) Affidavit stating that no more than the applicant will use the well and/or the well water will not be used in any commercial sales; and
    - (D) Certified cost estimate of well installation.
- (d) Private Water Systems. In areas where development requires water services for more than one (1) single facility and the cost of extending and tying onto the city system is prohibitive, privately owned water facilities may be considered and approved by the city according to the following general criteria:
- (1) The premises upon which such structure is located is more than 1,000 feet from any city water main or appurtenances. The distance shall be measured as the straight-line horizontal distance between the end of the existing city water main or appurtenance to the nearest property boundary of the lot to be served.
  - (2) The applicant of the proposed alternative system provided certified evidence from a registered professional engineer that the system will meet all city, state and federal health and water quality standards.

- (3) The sizing and material quality of all facilities will meet the city standards. Provisions shall be made to design the water system to provide adequate fire protection for the development in accordance with the design criteria established by the city. The sizing and material quality of all facilities shall be oversized to meet any future phases of the development.
  - (4) Perpetual private maintenance is guaranteed by such means as a homeowner's association, bonds or other means approved by the city attorney.
  - (5) Operator of the system will be certified by the TCEQ.
  - (6) The city shall have the right to inspect the system periodically to determine if such system is being operated and maintained according to industry standards.
  - (7) The city may accept existing or annexed private water systems for operation and maintenance when the city's water lines are connected to such system, provided the system has been designed, constructed and operated in accordance with accepted industry and city standards. Such private systems with necessary easements for future maintenance shall be dedicated [to] the city at no cost.
  - (8) Prior to such acceptance by the city, such water lines and facilities shall be inspected and evaluated as to standards, adequacy, condition, etc.
- (e) Land Use Requirements for On-Site Sewage Systems.
- (1) Utilizing Private Water Well. Lots or tracts of land platted or created after the effective date of this article shall have a minimum area of one (1) acre and in accordance with TCEQ requirements when a private water well is located on a legal tract and a single-family dwelling, commercial, or institutional building utilizes an on-site sewage facility. Environmental protection must be demonstrated on the on-site sewage facility plan when the land tract is in a floodplain or floodway.
  - (2) Utilizing Public Water System. Lots or tracts platted or created after the effective date of this article shall have a minimum area of half (1/2) acre and in accordance with TCEQ requirements when a single-family dwelling, commercial or institutional building utilizes public water system in conjunction with an on-site sewage facility. Environmental protection must be demonstrated on the on-site sewage facility plan when the land tract is in a floodplain or floodway.
- (f) Individual On-Site Sewage Disposal Systems. Individual on-site sewage disposal systems will be considered for developments that are in areas that are impractical or economically infeasible to connect to the city centralized waste collection system. The key factors that will be evaluated to determine the city's acceptance of these alternative individual on-site sewage disposal systems are:

- (1) General compliance with the city's comprehensive land use plan and wastewater collection system master plans.
  - (2) The suitability of the soil conditions, topography and other environmental factors effecting the development for the installation of the individual on-site sewage disposal systems.
  - (3) The total number of lots, size of lots and overall density of the development.
  - (4) The impact on surrounding properties and environmentally sensitive areas adjacent to the development and the availability of buffer areas.
  - (5) The impact on surrounding properties ability to develop with suitable access to sanitary sewer facilities.
  - (6) Review of subdivision or development plans. Before the permit process for individual on-site sewage facilities can begin, persons proposing residential or nonresidential developments with on-site sewage facilities shall submit planning materials for these developments to the City of Plum Grove. The materials shall be prepared by a professional engineer or professional sanitarian and shall include and [an] overall site plan, topographic map, 100-year floodplain, soil survey, location of water wells, locations of easements as identified in Texas Administrative Code Title 30 Chapter 285, and a complete report detailing the types of on-site sewage facilities to be considered and their compatibility with area wide drainage and groundwater. A comprehensive drainage plan shall also be included in these planning materials.
- (g) Septic Systems. Developments may be approved with individual on-site sewage facility systems according to the following criteria:
- (1) A septic tank may be installed to serve an individual residence, commercial or industrial facility if:
    - (A) The premise(s) upon which such structure is located is more than 1,000 feet from any city sanitary main or appurtenances. The distance shall be measured as the straight-line horizontal distance between the end of the existing city sanitary sewer main or appurtenance to the nearest property boundary of the lot to be served.;
    - (B) The director of water and sewer certifies in writing that the topography of such premises makes normal connection with such existing sanitary main impractical or impossible; and
    - (C) The operation of an on-site sewage facility is feasible on the premises and will meet the standards and requirements of this code.

All other jurisdictions of on-site sewage facility shall be unlawful within the city or the extraterritorial jurisdiction.

- (2) On-site sewage facilities shall be installed in accordance with TCEQ requirements.
- (3) An applicant for approval of an individual septic tank shall submit the following evidence to the director of water and sewer:
  - (A) Proof of application submission to TCEQ and to include:
    - (i) Map and statement of justification;
    - (ii) Affidavits that no more than one (1) residence, commercial or industrial facility shall be utilizing such on-site sewage facility;
    - (iii) A site evaluation and construction plan of the on-site sewage facility system prepared by a registered professional engineer or registered professional sanitarian; and
    - (iv) Affidavit of the results of the percolation tests.
  - (B) Upon review of this evidence, the director of water and sewer may issue a[n] on-site sewage facility permit.
- (h) Aerobic Treatment Systems. Developments may be approved with individual aerobic treatment systems according to the following criteria:
  - (1) An individual aerobic treatment system with effluent disposal may be installed to serve an individual residence, commercial or industrial facility if:
    - (A) The premise(s) upon which such structure is located is more than 1,000 feet from any city sanitary sewer main or appurtenances. The distance shall be measured as the straight-line horizontal distance between the end of the existing city sanitary sewer main or appurtenance to the nearest property boundary of the lot to be served.;
    - (B) The director of water and sewer certifies in writing that the topography of such premises makes normal connection with such existing sanitary main impractical or impossible; and
    - (C) The operation of an on-site sewage facility is feasible on the premises and will meet the standards and requirements of this code.

All other jurisdictions of on-site sewage facility shall be unlawful within the city or the extraterritorial jurisdiction.

- (2) Individual aerobic treatment systems with effluent disposal shall be installed in accordance with the standards established by the TCEQ and the design criteria adopted by the city.
- (3) An applicant for approval of an individual septic tank shall submit the following evidence to the director of water and sewer:
  - (A) Map and statement of justification;
  - (B) Affidavits that no more than one (1) residence, commercial or industrial facility shall be utilizing such on-site sewage facility;
  - (C) A site evaluation and construction plan of the on-site sewage facility system prepared by a registered professional engineer or registered professional sanitarian; and

Upon review of this evidence, the director of water and sewer may issue a permit for the individual aerobic treatment system.

- (i) Wastewater Treatment Systems. In areas where development requires water services for more than a single facility and the cost of extending and tying onto the city system is prohibitive public or privately owned facilities may be considered and approved by the city according to the following general criteria:
  - (1) The premise[s] upon which such structure is located is more than 1,000 feet from any city sanitary main or appurtenance. The distance shall be measured as the straight-line horizontal distance between the end of the existing city sanitary sewer main or appurtenance to the nearest property boundary of the lot to be served.
  - (2) The applicant of the proposed alternative system provides certified evidence from a registered professional engineer that the system will meet all city, state and federal health and water quality standards.
  - (3) The sizing and material quality of all facilities will meet the city standards and the present and any future phases to the concerned development.
  - (4) Perpetual private maintenance is guaranteed by such means as a homeowner's association, bonds or other means approved by the city attorney.
  - (5) Operators of the system will be certified by TCEQ.
  - (6) The city shall have the right to inspect the system periodically to determine if such system is being operated and maintained according to industry standards.

- (7) The review and approval procedures for such wastewater treatment system shall proceed concurrently with the normal platting process and engineering plan approval process as outlined in this article, except for applications under these alternative water and sewer facilities proposals, which shall first require review and recommendation from the director of water and sewer and final approval for the city council.
- (8) The city may accept existing and annexed private wastewater treatment system for operation and maintenance when the city's sewer lines are connected to such system, provided the system has been designed, constructed and operated in accordance with accepted industry and city standards. Such private system shall be dedicated to the city at no cost.
- (9) Prior to such acceptance by the city, such water and sewer lines and facilities shall be inspected and evaluated as to standards, adequacy, condition, etc.

**Sec. 7.410 Storm Drainage Minimum Standards**

- (a) General Provisions. Drainage facilities shall be designed and constructed in accordance with this article, city's master drainage plan, and the city engineer's specifications and recommendations. Any inconsistencies among any drainage standards stated herein, the stricter standard shall prevail, and the city engineer or designee shall make the final determination. Other hydrologic and hydraulic design methods may be used to satisfy drainage requirements with prior approval by the city engineer or designee.
- (b) Drainage Improvements Required. All developments shall provide for new drainage facilities, the improvement of any existing drainage facilities, channel improvements, grading, driveway adjustments, culvert improvements or any other improvement, drainage facility or work which is necessary to provide for the stormwater drainage needs of a development, in accordance with the requirements and design standards of this section, shall be included but not limited to any drainage facilities, improvements or other work which is necessary to:
  - (1) Provide for the conveyance of all stormwater from the development when fully developed to an adequate discharge point;
  - (2) Fulfill any purpose for which the requirements of this section are imposed;
  - (3) Adequately protect the development from flooding, including the effects of the one-hundred-year rainfall event;
  - (4) Ensure that the runoff after development during the one-hundred-year rainfall event shall not be greater than prior to development and shall not negatively impact downstream property or neighboring property; for instance the drainage from a planned subdivision shall not increase the water level to any existing creek, stream or bayou above the water level previously associated with such 100-

year rainfall event; if unknown the city engineer to determine design criteria to be used;

- (5) Properly control any increase in the upstream or downstream stage, concentration or water surface elevation and erosion caused by the development;
  - (6) Provide for the conveyance of off-site storm drainage based on ultimate developed watershed conditions through the development.
- (c) Discharge Points. All drainage improvements shall be terminated at a discharge point approved by the city. Such discharge point, or outlet, shall be designed and constructed to prevent damage to or overflowing into adjacent property. The city may require creek improvement, channel lining, energy dissipaters or other improvements for such outlet to prevent erosion or increase the flow capacity.
- (d) Off-Site Drainage. Off-site drainage facilities and improvements shall be provided by the developer whenever additional stormwater runoff from the development would adversely affect any off-site property or overload an existing drainage facility, whether natural or manmade. The on-site runoff shall not be discharged onto adjacent properties, except into existing creeks, channels or storm drains, unless drainage or flowage easements are obtained from those properties. If the developer cannot obtain the necessary easements to make required off-site drainage improvements, upon request of the developer after compliance with the provisions of this code, the city may bring condemnation proceedings to obtain the off-site drainage easements.
- (e) Floodplains. Where regulations within this section require a development to make any drainage improvements in or adjacent to a floodplain to provide for the ultimate base flood, the developer may, in lieu of making the required improvements, restrict development in the area subject to flooding because of the failure to provide for the drainage improvements. In such cases, the area to be left undeveloped shall be dedicated to the public as a drainage easement on the final plat.
- (1) Floodplain Restrictions. The planning commission shall, when it deems it necessary for the health, safety or welfare of an area and necessary for conservation of water, drainage, and sanitary facilities, or where prohibited in the Flood Damage Prevention Regulations, prohibit development of any portion of the property which lies within the floodplain of any stream or drainage course. These floodplain areas shall be preserved from all destruction or damage resulting from clearing, grading, or dumping of earth, waste or material, or stumps, except at the discretion of the planning commission.
  - (2) Creek Restrictions. Major creeks shall remain in open natural condition; smaller creeks or drainageways may be channelized upon approval by the city engineer or designer provided they meet the criteria of the master drainage plan and the city's engineering and design criteria manual. When a creek or excavated channel is to

remain open, or in its natural conditions, dedication of a drainage easement shall be made to the city.

(f) Floodways and Improvements.

- (1) Generally, floodways serving drainage areas larger than one (1) square mile in area and which are still functioning primarily in a natural and adequate state shall not be altered or improved to provide for the drainage needs of a development, unless there is no other reasonable means or method to provide for such drainage.
- (2) As part of the required improvements, debris, small brush, vines and other obstructions may be cleared for that portion of any channel located within or on the perimeter of the development, as directed by the city engineer or designer, prior to the connection of any utilities for any building within a development. A development may also be required to provide clearing of off-site floodways to the extent necessary to adequately receive or convey stormwater runoff from the development, based on the roughness coefficient during the design process for the final plat.

(g) Site Erosion Control. To minimize erosion resulting from the removal of vegetation and to reduce the introduction of erosion materials into the storm drainage systems, all developments and any person undertaking any development activity shall make use of erosion and sediment control devices in accordance with the recommendations in this code and as directed by the city engineer or representative. The erosion and sediment control devices shall be installed and thereafter maintained until enough vegetation cover has been provided or been replaced to control erosion and sediment, as directed by the city engineer or designer. Failure to abide by these principles shall result in fines as specified in this code.

(h) Separation of Stormwater and Sanitary Sewerage Systems. Stormwater and sanitary sewerage systems are to be used and maintained as separate systems. Drainage facilities shall be designed so they do not connect, direct or allow stormwater into the sanitary sewerage system.

(i) Street Access Crossing Channels. No development shall be designed to access a public street across a channel without providing adequate clearance for the channel under design storm conditions as required by the drainage criteria manual.

(j) Runoff Determination.

- (1) For design purposes, the rainfall duration for drainage areas less than 200 acres will be no less than three (3) hours in duration.
- (2) For design purposes, the rainfall duration for drainage areas more than 200 acres will be no less than six (6) hours of duration.

- (3) The Rational Method. For drainage areas less than 600 acres and not in the FEMA floodway the peak discharge resulting from storm runoff will be computed by the rational formula ( $Q=CIA$ ); where “Q” is the discharge in cubic feet per second; “C” is the runoff coefficient; “I” is the rainfall intensity in inches per hour; and “A” is the drainage area in acres.
- (A) Runoff Coefficient (C). Shall consider the slope of the terrain, the character of the land-use, the length of overland flow and the imperviousness of the drainage area and shall be determined from the ultimate land development. The runoff coefficient for the appropriate land uses shall be as follows:

**Table 2: Minimum Coefficients**

<u>Land Use</u>	<u>Value of C</u>
Residential (single-family) areas	
Lots more than 1/2 acre	0.35
Lots 1/4–1/2 acre	0.45
Lots less than 1/4 acre	0.55
Multifamily areas	
Less than 20 service units/acre	0.65
20 service units/acre or greater	0.80
Business areas	0.80
Shopping centers	0.95
Industrial areas	0.70
Railroad yard areas	0.30
Parks/open space	0.30
Property that cannot be identified	0.70

- (B) Design Frequency (I). The following design flood frequencies shall apply. The time of concentration to be used shall be ten (10) minutes and refer to the rainfall intensity-duration curve as approved by the city's engineer.

**Table 3: Minimum Design Flood Frequencies**

<u>Facility</u>	<u>Minimum Design Frequency (Years)</u>
Street capacity, enclosed pipe system	Local–2 year Collector–2 year Arterial–10 year
Culverts, bridges, channels and creeks (new and improved)	Carry the existing capacity of the stream or 100 year

- (C) Area (A). The drainage area, in acres, in determining flows by the rational method shall be calculated by subdividing a map into the drainage areas within the basin contributing stormwater runoff to the system. The design must include the entire drainage basin, not just the subdivision under design unless such area is already designated by the city drainage map. Such area will include the location of high and low points on street grades, drainage divides in area and the general configuration of existing and finishing grades. Calculations for each major storm sewer line shall be shown on a drainage data sheet and shall be included in the proposed plans. All pertinent information (i.e. drainage, areas, time of

concentration, rainfall intensity, runoff coefficients, etc.) shall be listed on the data sheet. For drainage areas greater than 600 acres or where the flood insurance administration, Federal Emergency Management Agency (FEMA) has mapped an area, Soil Conservation Service (SCS) unit hydrograph techniques will be used to compute runoff volumes and peak discharges. This methodology can be found in the SCS Technical Release 55 Urban Hydrology. For project areas that have several hydraulic elements combined (for example, pipes, channels, and culverts), both the rational method and the SCS unit hydrograph method should be used. Where this occurs, the higher discharge from the two methods shall be utilized.

- (4) Redevelopment or In-Fill Development. Assuming no development takes place [sic]. The storm drain will then be evaluated with the development in place.
  - (A) If the proposed redevelopment has a lower or equal impervious cover, no modifications to the existing storm drain are required.
  - (B) If the hydraulic gradient of the existing storm drain is below the top of curb, no improvements to the existing storm drain are required.
  - (C) If the hydraulic gradient is above the top of curb, and no structures are threatened, the applicant must check with the city to see if a capital improvement project is proposed that will require a capital contribution. If no capital improvement project is in place for the subject system and no structural flooding is threatened by the project, then no improvements to the existing storm drain are required.
  - (D) If the hydraulic gradient indicates that structures are threatened by flooding, the applicant has the option of either providing internal storm drains to his/her development, making improvements to the existing storm drain or providing on-site detention.
- (5) City Projects (Capital Improvement Programs). Proposed city capital improvements may indicate a larger diameter storm sewer is planned in the area proposed for drainage improvements. The department of planning shall be consulted with on impact of new development.
- (6) Street Capacity. The design of street widths stated herein shall be such that stormwater from a two (2) year storm will not exceed the top of curb. Wherever the street capacity is exceeded, drainage systems designed by a professional engineer for removing flow from the street shall be used. Caution shall be exercised in the design of what is called a "T intersection." Whenever drainage is planned to cross street intersections a concrete valley will be used.
- (7) Drainage Design and Construction.

- (A) An underground storm drain on curb and gutter streets shall be installed beginning at the point where the calculated stormwater runoff is of such a quantity that it exceeds the height specified above (see also Table 2). The storm drain system from this point shall be constructed to an approved outlet.
- (B) Upon approval by the planning commission and city council, for non-curb and gutter streets open channel (channel or ditch) methods may be used to dispose of stormwater runoff of such a quantity that it exceeds the height specified above. Such channels may be in dedicated drainage easements outside the standard street right-of-way upon city approval of the location and alignment of such easements. Alternatively, the street right-of-way may be widened to accommodate an open channel of greater capacity than the standard street/ditch section as described in the figures herein.
  - (i) If the channel is in a widened street right-of-way, the city shall approve the right-of-way width and channel configuration.
  - (ii) All channels shall be designed and constructed to terminate at an approved outlet.
- (C) Sizing of Storm Sewers. Sewers shall be sized to carry the discharge (Q) derived from the formula stated herein. Capacity of storm sewers will be determined using Manning's Formula based on hydraulic gradients rather than the physical slope of the pipe.
- (D) Velocity Considerations.
  - (i) Storm sewers should be constructed to flow in subcritical hydraulic conditions if possible.
  - (ii) In the absence of Manning's Formula, minimum velocities should not be less than three (3) feet per second with the pipe flowing full, under the design conditions.
  - (iii) Maximum velocities should not exceed ten (10) feet per second.
  - (iv) In extreme conditions where the maximum velocity must be exceeded, prior approval must be obtained from the city engineer or representative.
- (E) Sizing and Spacing of Inlets. Inlets shall be spaced so that maximum travel distance of water in the gutter will not exceed 600 feet, unless otherwise approved at all low points in the gutter gradient. Inlets will be sized using an allowable capacity of one cubic foot per second (1cfs) per foot of opening for a throat height of five (5) inches. Inlet design shall

conform to standards on file with the department of planning and community development.

- (i) Recessed inlets will be required on arterial and collector streets.
  - (ii) Minimum curb inlet size shall be ten (10) feet. Maximum length of inlet at any one curb location shall be twenty (20) feet on each side of the street. Curb inlets are not allowed in intersection or curb returns.
  - (iii) Do not use beehive grate inlets or other specialty inlets.
  - (iv) Do not use grate top inlets in unlined roadside ditch.
  - (v) Do not place inlets in the circular portion of cul-de-sac streets unless justification based on special conditions can be provided.
  - (vi) Place inlets at the end of proposed pavement, if drainage will enter or leave pavement.
  - (vii) Do not locate inlets adjacent to esplanade openings.
  - (viii) Place inlets on side streets intersecting major streets, unless justification based on special conditions can be provided.
  - (ix) Only one connection is permitted to any one inlet, and that connection (lead) shall be made to the back of the inlet. Connections shall not be made to the front face of the inlet unless approved by the city. Connections shall not be made to the short sides of the inlet. Design the connection not to exceed outlet pipe capacity minus the calculated inlet flow or as determined by the city engineer.
  - (x) For all new construction, convey public or private alleyway drainage to an inlet prior to entering the public street drainage system.
- (F) Manholes. Manholes (inlets or junction boxes) shall be provided at all changes in grade or alignment, sewer intersections, street intersections and at a minimum of 700 feet on straight lines. Design of manholes shall follow acceptable engineering practice and shall be constructed of reinforced concrete sections in accordance with ASTM C-478, clay brick conforming to the latest revision of ASTM C-32, grade MM, concrete brick conforming to the latest revision of ASTM C-55, grade G-11, or equivalent ASTM upon approval by the city engineer.

- (i) Do not place manholes in driveways or in the street in front of or immediately adjacent to a driveway.
  - (ii) Inlets shall not be allowed to serve as manhole or junction box.
- (G) Pipe.
- (i) Pipe sizing shall be determined by Manning's Formula; however, in no case shall the pipe size be less than twenty-four (24) inches in diameter.
  - (ii) Discharge of the contents of a pipe shall be into a pipe equal to or larger, in diameter.
  - (iii) Match crowns of pipe of box at any size change unless severe depth constraints prohibit.
  - (iv) Locate storm sewers in public street right-of-way or in approved easements. Back lot easements are prohibited.
  - (v) Follow the alignment of the right-of-way or easement when designing cast in place concrete storm sewers.
  - (vi) A straight line shall be used for inlet leads and storm sewers.
  - (vii) Center culverts in side lot storm sewer easements.
  - (viii) Pipe soffits at changes in pipe sizes should be set at the same elevations.
  - (ix) Vertical curves in the conduit will not be permitted, and horizontal curves will be permitted only with the approval of the city engineer or representative. No reverse curves will be allowed.
  - (x) All pipe shall be reinforced concrete pipe (RCP) conforming to the latest revision of ASTM C-76, class III or equivalent upon approval by the city engineer. Where, in the opinion of the city engineer, added strength of pipe is needed for traffic loads over minimum cover or for excessive height of backfill, concrete pipe shall be ASTM C-76, class W or V or equivalent method upon determination by the city engineer. Pipe shall have a minimum cover of not less than one (1) foot cover the top of the pipe. Where applicable, pipe shall be in accordance with Texas Department of Highways and Public Transportation Standard Specifications for Construction of Highways, Streets and Bridges, item 460.

- (xi) To determine the tailwater depth for the outfall channels calculate the hydraulic gradient when the tailwater surface at the outlet is higher than the pipe or box.
- (H) Outfall/Open Channel Design. Outfalls or open channels from sewers and roadside ditches into natural drainageways shall be in accordance:
- (i) Outfalls shall enter at a grade of the natural drainage channel.
  - (ii) Open channel outfall design and construction shall be in conformance with city engineer specifications; and 5-year (Q) that does not exceed an approved maximum velocity. If such 5-year (Q) exceeds the approved maximum velocity, such channel design shall contain subsurface drainage systems, drop-type outfall or an approved concrete flume design in the drainage easement. However, a concrete transition flume shall be required in the park way area.
  - (iii) All outfalls and open channels shall contain a trickle channel with a minimum width of three (3) feet with a minimum concrete thickness of four (4) feet with welded earthen channels at a maximum side slope of 3:1 and sodded or seeded upon completion or if determined to be lined completely at a 1:1 maximum slope.
  - (iv) All channels shall be designed with one (1) foot of freeboard.
  - (v) Maximum channel velocities: grass-lined mostly sand 3.0 f.p.s.; grass-lined mostly clay 6.0 f.p.s; and rock, concrete, asphalt 12.0 f.p.s.
  - (vi) Culverts. Culvert length shall be such as to accommodate roadway shoulders, planned walkways and a maximum 3:1 slope to a standard headwall or end section. Where surface water from a street section enters a channel near a headwall, concrete spillway and apron areas shall be provided to prevent erosion. Texas Department of Transportation Standard Headwall or an approved sloped-end section shall be used. Sloped-end sections shall require rip-rap and concrete sections.
- (I) Outlet Velocity. Outlet velocity in designed drainage systems are greater than velocity in the natural channel, and for this reason, rip-rap and/or velocity control devices approved by the city shall be installed to prevent erosion at the outlet of all systems.
- (J) Line of Flow. Watercourses shall be allowed to follow their natural lines of flow; provided, however, that rechanneling or rerouting of watercourses

may be allowed where approved by the city and where the point at which the watercourse enters the lot and the point at which it leaves the lot are not changed.

- (K) Bridges and Box Culverts. Bridges or box culverts shall be designed and constructed at all street crossings over all drainageways and floodways in accordance with Table 3.
- (L) Public Easements Required. All public drainage facilities shall be placed in public easements as described in this article.
- (M) Stormwater Detention.
  - (i) General. The intention of stormwater detention is to mitigate the effect of the new development on an existing drainage system. Unless otherwise determined by the city engineer, the project engineer shall provide calculations using acceptable design criteria to show that the impact can be mitigated using detention criteria from the requirement list in this section.
  - (ii) Application of Detention.
    - a. The use of on-site detention is required when reported incidence of structural flooding exists, or when in-fill or redevelopment will result in a potential threat to existing structures unless the current infrastructure is improved, or the city has developed a plan for a detention facility to serve the overall area.
    - b. If development, redevelopment, or in-fill development could drain directly into a channel maintained by the county or a drainage district, then the county or the drainage district's criteria prevails. If no criteria exist, the city's criteria shall prevail. If the city's criteria or certain provisions within the criteria are stricter than the county's or the drainage district's criteria, the city's criteria shall prevail.
    - c. If redevelopment occurs without increasing the overall impervious character of the site, detention may not be required upon approval by the city engineer or representative.
    - d. If the proposed development has less or equal impervious land cover than that used in the design of the storm sewer system as shown on the drainage area map in the roadway

construction plans or other hydraulic computations, detention may not be required upon approval by the city engineer or representative.

- e. If the hydraulic grade line from the current design storm of the receiving storm sewer system remains below the elevation of the gutter throughout the system with the proposed development, detention may not be required upon approval by the city engineer or representative.

(iii) Calculation of Detention Volume.

- a. Detention volume for redevelopment areas is calculated based on the amount of area of increased impervious cover.
- b. Areas less than 3 acres. If the criteria set forth in this section and the Plum Grove Drainage Manual cannot be met, then detention will be required at the rate of 0.20 acre-feet per acre of increased impervious land cover.
- c. Areas greater than 3 acres. Per city engineer design specifications and recommendations.
- d. Private parking areas, private streets, and private storm sewers may be used for detention provided the maximum depth of flooding does not exceed nine (9) inches directly over the inlet and paved parking areas are clearly marked.
- e. Private transport truck only parking may be used for detention provided the maximum depth of flooding does not exceed fifteen (15) inches directly above the inlet and, unless otherwise, signage is provided stating that the area is subject to flooding during small rain events.

(iv) Detention Facility Design. The detention facility for a subdivision shall be designed for easy maintenance. Every consideration shall be given to designing the facility for multipurpose use such as playground, ball field, minipark, etc., to ensure that maintenance will be accomplished. The design shall include the following:

- a. An earthen detention basin shall have minimum side slopes of 4:1 and a minimum bottom width of ten (10) feet;
- b. A five (5) foot wide, six (6) inch thick reinforced concrete trickle channel shall be constructed through the basin bottom to accommodate low flow and allow fast drying;

- c. The bottom of the detention basin shall have a minimum one percent cross slope to facilitate quick drainage;
- d. Inlets and outlets and required trash racks shall be located to be easily accessible;
- e. The detention basin, maintenance roadway and right-of-way shall be hydro mulched with Bermuda seed and watered to facilitate full grass coverage; and
- f. Ingress/egress, including a dedicated right-of-way if necessary, shall be provided to the detention basin.

(v) Calculation of Outlet Size. Detention pond discharge pipe into an existing storm sewer line or existing ditch:

- a. Maximum pool elevation at or below the design hydraulic grade at the outfall - the discharge line shall be sized for the design storm with outfall pipe flowing full. The pond will float on the drainage system to provide maximum benefit.
- b. Maximum pool elevation at or above the hydraulic grade at the outfall - provide a reducer or restrictor pipe to be constructed inside the discharge line. The discharge line shall be sized for the design storm with the outfall pipe flowing full.
- c. Reducer or restrictor pipes shall be sized as follows:
  - 1. The reducer or restrictor will be sized for undeveloped rate of discharge at no greater than 0.5 cubic feet per second per acre.
  - 2. Use the following equations to calculate the required outflow orifice:

Where:

$Q$  = Outflow discharge (cfs)

$C$  = 0.8

$A$  = Orifice area (square feet)

$g$  = Gravitational factor (32.2)

$h$  = Head, water surface differential (feet)

$D$  = Orifice diameter (feet)

3. In addition to a pipe outlet, the detention basin shall be provided with a gravity spillway that will protect structures from flooding should the detention basin be overtopped.

(vi) Ownership and Easements.

a. Private facilities:

1. Pump discharges into a roadside ditch require the submittal of pump specifications on the design drawings.
- b. The city reserves the right to prohibit the use of pump discharges where their use may aggravate flooding the public right-of-way.
  - c. Responsibility for maintenance of the detention facility must be indicated by letter submitted to the city as part of the design review.
  - d. All private properties being served have drainage access to the pond.

(vii) Public Facilities.

- a. Facilities will only be accepted for maintenance by the city in cases where public drainage is being provided.
- b. The city requires a maintenance work area of twenty (20) foot width surrounding the extent of the detention area. Public rights-of-way or permanent access easement may be included as a portion of this twenty (20) foot width.
- c. A dedication of easement shall be provided by plat or by separate instrument.
- d. Proper dedication of public access to the detention pond must be shown on the plat or by separate instrument. This includes permanent access easements with overlapping utility easements.

- (N) Habitable Structures. Adequate means for stormwater runoff more than the streets' "design storm" capacity [i.e., two, ten-year (2, 10 yr.) storm] shall be provided to flow around habitable structures.
- (i) If adjacent topography rises away from the street, a grading/drainage plan shall be provided which shows that all building sites can provide a finished floor elevation, whichever is the highest:
    - a. At least twelve inches (12") above the top of the curb using the highest point along the portion of such curb fronting the building site;
    - b. At least twelve inches (12") above the top of ditch elevation, using the highest point along the portion of such ditch fronting the building site; or
    - c. At least eighteen inches (18") above natural ground.
  - (ii) All streets shall be designed and constructed to minimize any fill required to bring building pads into compliance with this document.
  - (iii) Alternate methods of building protection of those above may be accepted by the city upon submittal of detailed, engineered plans.

# CHAPTER 8

## TRAFFIC CONTROL

### ARTICLE 8.100 GENERAL TRAFFIC REGULATIONS

#### Sec. 8.101 Definition of Terms

When used in this article, the following words and phrases shall have the meaning herein ascribed to them:

Alley. Shall mean any public way in the city extending either partly through, or through any city block in the rear of city lots and in a direction generally from avenue to avenue and being not more than twenty feet (20') in width and capable of being traversed by a vehicle.

Authorized Emergency Vehicle. Shall mean any fire department vehicle, police vehicle, or public or private ambulance for which permits have been issued by the State Board of Health; emergency vehicles of city departments or public service corporations as are designated or authorized by the city council; and private vehicles operated by volunteer firemen while answering a fire alarm.

Driver. Shall mean any person who drives or is in actual physical control of the movement of a vehicle.

Driveway, Private. Shall mean any entrance or exit from the sidewalk or sidewalk area of any street affording a means of ingress or egress for vehicles to or from any private property, or the entrance or exit of any private garage into or from any alley.

Driveway, Public. Shall mean any entrance or exit crossing the sidewalk or sidewalk area of any street affording a means of ingress or egress for vehicles on or off any public property.

Intersection. Shall mean the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral curb lines or, if none, then the lateral boundary lines of the roadway of two (2) streets which join one another at, or approximately at, right angles; or the area within which vehicles traveling upon different streets joining at any other angle may come in conflict. Where a street includes two (2) roadways, thirty feet (30') or more apart, then every crossing of each roadway of such divided street by an intersecting street shall be regarded as a separate intersection. If such intersecting streets also include two (2) roadways thirty feet (30') or more apart, then every crossing of two (2) roadways of such streets shall be regarded as a separate intersection.

Loading Zone. Shall mean that portion of any roadway set apart, marked, and numbered for the sole use of the public as a place for loading or unloading passengers, merchandise, or other cargo.

Motor Vehicle. Shall mean 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.

No Parking Zone. Shall mean a space on the roadway adjacent to the curb, whether marked by official sign or not, in which no vehicle may be parked.

Official Traffic-Control Devices. Shall mean all signs, signals, markings, and devices not inconsistent with this article which are placed or erected by authority of a public body or official having jurisdiction, for regulating, warning, or guiding traffic.

Park or Parking. Shall mean the standing of a vehicle occupied or unoccupied otherwise than a temporary stopping of such vehicle for, and while engaged in, loading or unloading passengers, merchandise, or their cargo; except an involuntary stopping of such vehicle by reason of mechanical failure or by direction of a police officer.

Parking Stall or Parking Space. Shall mean that portion or section of a roadway adjacent to the curbing or edge, set apart, marked, and bounded by lines painted or marked upon the surface of the roadway and extending into the roadway for the use or parking vehicles; or that portion of any alley marked by official signs showing such space to be a parking zone.

Pedestrian. Shall mean any person afoot or walking.

Policeman or Police Officer. Shall mean any member of the police department of the city authorized by law to make arrests for traffic offenses.

Residential District. Shall mean the territory contiguous to and including a street not comprising a business district, when the property on such street for three hundred feet (300') or more is, in the main, improved with residences.

Right-of-Way. Shall mean the privilege of the immediate use of a roadway.

Roadway. Shall mean that portion of a street improved, designed or ordinarily used for vehicular travel. In the event a street includes two (2) or more separate roadways, the term, "roadway," shall refer to any such roadway separately, but not to all such roadways collectively.

Safety Zone. Shall mean the area or space officially set apart within or along a roadway for the exclusive use of pedestrians, and which is protected, or so always marked or so indicated by adequate and plainly visible signs while set apart as a safety zone.

Sidewalk. Shall mean that portions of a street between the curb lines or the lateral lines of a roadway and the adjacent property lines, which is intended for the use of pedestrians.

Stop. Shall mean the complete cessation of motion of a motor vehicle or pedestrian.

Stop, Stopping, or Standing. Shall mean any stopping or standing of a vehicle whether occupied or not when prohibited, except when necessary to avoid conflict with other traffic or when in compliance with the direction of a police officer or traffic-control sign or signal.

Street or Highway. Shall mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to use by the public for purposes of vehicular travel.

Traffic. Shall mean pedestrians, ridden or herded animals, vehicles, and other conveyances, either singly or together, while such are using any street for purposes of travel.

Traffic-Control Device. Shall mean any device whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Truck. Shall mean a motor vehicle designed primarily for the transportation of cargo.

Vehicle. Shall mean any device in, upon, or by which any person or property may be, or is, transported upon any street within the corporate limits of the city, except devices moved by human power or used exclusively upon stationary rails or tracks.

#### **Sec. 8.102 Authority to Direct Traffic**

- (a) Officers of Police Department. Officers of the police department, or such officers as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand, or signal in conformance with this article and other traffic laws. In the event of fire or other emergencies, to expedite traffic, or to safeguard pedestrians, officers of the police department may direct traffic as conditions may require, notwithstanding the provisions of this article and other traffic laws.
- (b) Emergency Vehicles.
  - (1) The provisions of this article regulating the operation, parking, and standing of vehicles shall apply to authorized emergency vehicles, except 1) that a driver, when operating any such vehicle in an emergency or in the immediate pursuit of an actual or suspected violator of the law, or 2) when otherwise directed by a police officer, may:
    - (A) Park or stand, notwithstanding the provisions of this article;
    - (B) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation;
    - (C) Disregard regulations governing direction of movement or turning in specified directions so long as he does not endanger life or property;

- (D) Exceed the prima facie speed limits established by this article so long as life and property are not endangered; provided, however, that this exception shall not apply to ambulances.
- (2) The exemptions granted above shall apply only when the driver of the vehicle sounds a siren, bell, or exhaust whistle as may be reasonably necessary, and when the vehicle displays a lighted red lamp visible from the front as a warning to others.

## **ARTICLE 8.200 TRAFFIC-CONTROL DEVICES**

### **Sec. 8.201 Conformity with Manual and Specifications of State Highway Department**

All traffic-control signs, signals, and devices shall conform to the manual and specifications approved by the State Highway Department. All signs, signals, and devices require under this article or any future ordinance for a purpose shall, so far as practical, be uniform as to type and location throughout the city. All traffic-control devices so erected and not inconsistent with the provisions of state law or this article, shall be official traffic-control devices.

### **Sec. 8.202 Powers and Duties of Public Works Director**

Shall place and maintain traffic-control signs, signals, and devices required under this or any future ordinance, and may place and maintain such additional traffic-control devices as are deemed necessary to guide or warn traffic. It shall be the duty of the public works director to supervise the installation and proper timing and maintenance of traffic-control devices.

### **Sec. 8.203 Obedience to Devices**

The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto which has been placed in accordance with this article and other traffic ordinances of the city, unless otherwise directed by a police officer, subject to the exception granted the driver of any authorized emergency vehicle.

### **Sec. 8.204 Necessity of Signs**

No provisions of this article which require the placing of signs shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a section does not state that signs are required, such sections shall be effective even though no signs are erected or in place.

### **Sec. 8.205 Ratification of Existing Devices**

All traffic control signs, signals, devices, and markings placed and erected prior to the adoption of this article and in use for regulating, warning, or guiding traffic are hereby affirmed, ratified,

and declared to be official traffic-control devices; provided such traffic-control devices are not inconsistent with the provisions of this article or state law.

**Sec. 8.206 Unauthorized Signs, Signals, Markings, or Devices**

- (a) Prohibited or Restricted. No person shall place, maintain, or display upon or in view of any road, street, or highway any unauthorized sign, signal, marking, or device which purports to be, is an imitation of, or resembles an official traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad signal or sign; and no person shall place or maintain, nor shall any public authority permit upon any highway or street, any traffic signal or sign bearing thereon any commercial advertising. This shall not be deemed to prohibit the erection, upon private property adjacent to streets or highways, of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (b) Removal. Every such prohibited sign, signal, marking, or device is hereby declared to be a public nuisance and the city is hereby empowered to remove the same or cause it to be removed without notice.

**Sec. 8.207 Altering, Damaging, Etc., of Devices**

No person shall, without lawful authority, attempt to, or in fact; alter, deface, injure, knock down, or remove any official traffic-control device or any inscription, shield, or insignia thereon, or any part thereof.

**Sec. 8.208 Authority to Install Traffic Control Signs, Signals or Devices by City Council**

All traffic control signs, signals or devices shall be ratified or designated by the city council by this article or designated by future ordinances, except in those cases that the public works director deems it necessary to guide or warn traffic.

**ARTICLE 8.300 STOPPING, STANDING, AND PARKING OF VEHICLES**

**Sec. 8.301 Presumption that Owner of Vehicle is Violator**

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

**Sec. 8.302 Unattended Vehicles**

No person driving, or in charge of, a motor vehicle shall permit it to stand unattended without first stopping the engine and effectively setting the brakes thereon, and, when standing upon any grade, turning the front wheels toward the curb or side of the roadway.

**Sec. 8.303 Prohibited Parking**

- (a) Specified Places. No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with law, the direction of a police officer, or a traffic-control device in any of the following places:
- (1) On a sidewalk or sidewalk area;
  - (2) In front of a public or private driveway;
  - (3) Within an intersection;
  - (4) Within fifteen feet (15') of a fire hydrant, except within an officially-marked parking stall;
  - (5) On a crosswalk;
  - (6) Within twenty feet (20') of a crosswalk at an intersection, except within an officially marked parking stall;
  - (7) Within thirty feet (30') of the approach to any flashing beacon, stop sign, or traffic-control signal located at the side of a roadway;
  - (8) Between a safety zone and the adjacent curb or within thirty feet (30') of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by sign or marking;
  - (9) Within fifty feet (50') of the nearest rail of a railroad crossing;
  - (10) Within twenty feet (20') of the driveway entrance to any fire station, or on the side of a street opposite the entrance to any fire station, or within seventy-five feet (75') of such entrance (when properly sign-posted);
  - (11) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
  - (12) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
  - (13) Upon any bridge or other elevated structure upon a highway, or within a highway tunnel;

- (14) At any place where official signs prohibit stopping, standing, or parking.
- (b) Moving of Vehicles. No person shall move a vehicle not lawfully under his control into any prohibited area specified above or any distance from a curb, except as permitted by law.
- (c) Specified Purposes. No person shall park a vehicle upon any street in the city of the principal purpose of:
- (1) Displaying such vehicle for sale;
  - (2) Washing, greasing, or repairing such vehicle, except such repairs as necessitated by an emergency; or
  - (3) Advertising, except by permit issued by the chief of police and under the conditions stipulated therein.
- (d) Specified Minimum Roadway. No person shall stop, stand, or park any vehicle upon a street in such a manner or under such conditions as to leave available less than ten feet (10') of width of either lane of a roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading or passengers or, when necessary, in obedience to traffic regulations, traffic signs, or signals of a police officer.

**Sec. 8.304 Vehicles Exceeding Length of Twenty-Five (25) Feet**

It shall be unlawful for any person to park any vehicle, trailer, or combination thereof which shall exceed twenty-five (25) feet in length on the streets, alleys, or other public ways of the city.

**ARTICLE 8.400 HANDICAPPED PARKING**

**Sec. 8.401 Handicapped Parking Enforcement Specialist Program**

- (a) The chief of police shall implement a Handicapped Enforcement Specialist Program to allow Handicapped Parking Volunteers to assist in the enforcement of Handicapped Parking regulations.
- (b) A copy of the Handicapped Enforcement Regulations, which is on file in the office of the city secretary, shall serve as a guide toward the implementation, training, and operation of the Handicapped Enforcement Specialist Program. The chief of police shall retain all authority over the implementation, training and operation of the Program, including, the delegation of authority to volunteers and the appointment of volunteers, individually or as a group, to issue citations to violators or to report violations to the police department as he may determine to be in the best interest of the city and the handicapped citizens of Plum Grove.

**Sec. 8.402 Unlawful Use of Handicapped Parking Privileges**

- (a) The City of Plum Grove shall hereby provide for the application of VCS Art. 6675a-5e.1 Section 10 which reads as follows:

“Sec. 10. (a) A person commits an offense if the person is neither temporarily or permanently disabled nor transporting a terminally or permanently disabled person and parks a vehicle with such special license plates or displaying a removable windshield identification card in a parking space or Parking area designated specifically for the disabled by a political subdivision or by a person who owns or controls private property used for parking for which a political subdivision has provided for the application of this section under Subsection (c) of Section 6A of the Act.

- (b) A person commits an offense if the person parks a vehicle neither displaying special license plates nor displaying a removable windshield identification card in a parking space or parking area designated specifically for the disabled by a political subdivision or by a person who owns or controls private property used for parking for which a political subdivision has provided for the application of this section under Subsection (c) of Section 6A of the Act.
- (c) A person commits an offense if the person parks a vehicle so that the vehicle blocks an access or curb ramp, or any other architectural improvement designed to aid the disabled.
- (d) A person commits an offense if he lends a removable windshield identification card issued to him under this Act to a person who uses the removable windshield identification card in violation of the section.
- (e) An offense under this section is a Class C misdemeanor.”
- (b) In a prosecution of an offense under Section 8.401 of the article, it is presumed that the registered owner of the motor vehicle that is the subject of the prosecution is the person who parked the vehicle at the time and place the offense occurred.
- (c) Any person who violates any provision of this article or who shall neglect to comply with the terms thereof shall be deemed guilty of a misdemeanor and shall on conviction thereof be fined.
- (d) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by a fine.
- (e) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by a fine.

- (f) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by a fine.
- (g) If it is shown on the trial of an offense under this section that the person has been previously convicted four times of an offense under this section, the offense is punishable by a fine.

## **ARTICLE 8.500 IMPOUNDMENT OF VEHICLES**

### **Sec. 8.501 Uninsured Vehicles**

- (a) A police officer is authorized to remove or cause to remove a vehicle from a public street using a wrecker service designated by the chief of police to a place designated by the chief of police when:
  - (1) The vehicle is involved in an accident and the vehicle's owner or operator fails to show proof of established financial responsibility as required under Chapter 601 of the Texas Transportation Code, as amended; or
  - (2) The vehicle is stopped by a police officer for an alleged violation of a city or state traffic law or other law applicable to the operation of a vehicle on the roadway, and the vehicle's operator fails to show proof of established financial responsibility as required under Chapter 601 of the Texas Transportation Code, as amended.
- (b) A vehicle removed and towed under this section must be kept at the place designated by the chief of police until application for redemption is made by the owner or the owner's authorized agent, who will be entitled to possession of the vehicle upon the owner's payment of costs of towing, notification, impoundment, storage, and upon showing proof of financial responsibility. Fees for vehicles impounded under this section shall be in accordance with the currently active wrecker service ordinance. The designated wrecker company shall follow state law regarding impoundment and salvage.
- (c) The city assumes no liability for the vehicle or for personal property left in the vehicle, after impoundment.

### **Sec. 8.507 Regulating Speed on State Maintained Highways**

- (a) The following maximum speed limits are hereby established for the portions of State Highway No. 321 as hereafter described:
  - (1) From the intersection of the centerline of U. S. Highway 90 and State Highway 321 (Cleveland Street) North .223 miles the speed limit shall be 30 miles per hour and the Highway Department of the State of Texas is hereby authorized to post speed limit signs within such designated area.

- (2) North from the termination of the 30 mile per hour speed limit set forth in paragraph an immediately above, the speed limit shall be 45 miles per hour on State Highway 321 for .551 miles and the Highway Department of the State of Texas is hereby authorized to post speed limit signs within such designated area.
  - (3) North from the termination point of the 45 mile per hour speed limit set forth in paragraph b immediately above to the north line of the corporate limits of the City of Plum Grove, the speed limit shall be 55 miles per hour and the Highway Department of the State of Texas is hereby authorized to post speed limit signs within such designated area.
  - (4) Notwithstanding the 55 miles per hour speed zone established by paragraph (3) immediately above, the school speed zone for 0.205 miles shall be posted as provided by law.
- (b) A copy of the speed zone map setting out the distances recited in this article and speed limits is on file in the office of the city secretary.
  - (c) No person shall, in a vehicle operated on the State Highway 321 as herein designated, exceed the speeds posted by the State Highway Department and as provided for in the areas designated and speed limits assigned in the speed zone map, a copy of which is on file in the office of the city secretary.
  - (d) Each time that a violation of this article occurs shall be deemed a separate offense. A person violating this article, shall, upon conviction, be guilty of a class C misdemeanor offense, and shall be punishable by a fine.

**Sec. 8.508 Regulating Speed on City Maintained Streets**

- (a) The speed limit on that section of West Houston from Cleveland Street to Highway 146 shall be 25 mph.
- (b) Any person who violates any provision of this article or shall neglect to comply with the terms hereof shall be deemed guilty of a misdemeanor and shall on conviction thereof be fined.

**ARTICLE 8.600 STREET WEIGHT LIMITS**

**Sec. 8.601 Authority of City Mayor to Designate Restrictions**

The city mayor or such employee or employees as may be from time to time designated by the city mayor, shall be responsible for the marking of traffic zones and the installation of signs and road markers relating to the direction and control of traffic as provided by this article and by future ordinances of the City of Plum Grove.

**Sec. 8.602 Definitions**

The following words and phrases when used in this article shall, for the purposes of this article, have the meanings respectively ascribed to them as follows:

Truck. Every commercial motor vehicle designed, used or maintained for the transportation of property, and designed for, or having a manufacturer's gross vehicle weight rating of ten thousand (10,000) pounds or more.

Trailer. Every commercial vehicle without motive power designed for carrying property and for being drawn by a motor vehicle, and designed for, or having a manufacturer's gross weight rating of ten thousand (10,000) pounds or more.

Truck Tractor. Every commercial motor vehicle designed and used primarily for drawing trailers and not designed to carry a load other than a part of the trailer and load so drawn.

Truck Traffic. The operation of any commercial truck, flock tractor or combination of truck, truck tractor and trailer.

Truck Routes. Those routes which are designated by this article for use of truck traffic.

Terminal. A facility at which property is loaded, unloaded or transferred on to or off trucks or trailers.

### **Sec. 8.603 Truck Routes**

- (a) For the purpose of this article, those streets and thoroughfares within the corporate limits of the city which are enumerated as follows are hereby designated as truck routes:

<u>ROUTE</u>	<u>EXTENT</u>
----FM 1010 ???	Entire extent within the corporate limits of the city.
-other locations ?	Entire extent within the corporate limits of the city.

- (b) Truck Traffic Confined to Truck Routes. No person, firm, company or corporation shall operate truck traffic upon any road, street, avenue or thoroughfare within the corporate limits of the City of Plum Grove except on those which are designated as truck routes in Section 8.603(a) herein above.
- (c) Proceeding to Truck Route. The provisions of Section 8.603(b) notwithstanding, in those instances where any truck traffic, originating within the corporate limits of the city, shall have as it's point of origin a point located off a designated truck route, it shall proceed to the nearest point on a designated truck route by the most direct route possible. If such truck traffic shall originate outside the corporate limits of the city and enter the city at a point which is not on a designated truck route, it shall proceed to the nearest point on a designated truck route by the most direct route possible.

- (d) Departing to Proceed To or From Terminal. Truck traffic may depart from a point on a designated truck route for traveling to and from a truck terminal, provided that such truck traffic proceeds by the most direct route to or from the applicable truck terminal.
- (e) Departing Truck Route for Pickup or Delivery. Truck traffic may depart from designated truck routes where it is necessary to load or unload at location or locations situated off designated truck routes. Such truck traffic shall leave any designated truck route which is nearest the applicable place of loading or unloading by the most direct route possible.
- (f) Alternate Routes. Whenever a street or roadway designated as a truck route is under repair or otherwise temporarily out of use, the Mayor or city manager shall be authorized to designate alternate truck routes.
- (g) Parking. No truck, trailer, truck tractor or combination of truck and trailer as defined herein shall be parked within any street or road right of way except in the case of emergencies or mechanical breakdown and then not to exceed a period of eight (8) hours. Trucks and truck tractors, excluding trailers, may depart from designated truck routes for purposes of parking on private property. Such truck traffic shall leave any designated truck route which is nearest the applicable place of parking by the most direct route possible.
- (h) Special Trailer Permits - Unloaded Trailers.
  - (1) Any person, firm, company or corporation who routinely parked a trailer on private property within the city limits prior to adoption of this regulation, may be issued a Special Trailer Permit for departing a truck route and proceeding to or from that same private property location for the purposes of parking a trailer.
  - (2) Permits, when issued, may be issued for only the number of trailers parked on the identified private property prior to January 1, 2019. A permit shall be issued for the replacement of trailers existing and being parked on the identified private property on or before January 1, 2019. No additions to a trailer fleet shall be permitted.
  - (3) Permitted trailers that are sold, replaced or otherwise disposed of shall have any identifying decals removed, and evidence of that removal shall be provided to the city before a replacement trailer will be permitted.
  - (4) Permits shall not be transferable to another truck driver or owner under any condition.
  - (5) Permits, when issued, shall be conditioned upon the use of a described route for departing a designated truck route and proceeding to and from the identified parking location.

- (6) Permitted trailers shall have attached, at owners' expense, a decal or decals, approved by the city, displayed in such a manner that the trailer's permitted status is recognizable from the side and rear of the trailer. The driver of the truck transporting any permitted trailer shall have in his possession and shall provide upon the request of any police officer, documentation provided by the city which describes the trailer and the permitted route for departing a designated truck route and proceeding to and from an identified parking location.
- (7) Application for a Special Trailer Permit shall be submitted to the city in the form of a letter of request. The letter of request shall include or have attached:
  - (A) A description of the trailer to be permitted including make, model, dimensions, serial numbers and a photograph.
  - (B) The address at which the trailer is and has been parked prior to January 1, 2019.
  - (C) Evidence that the trailer or trailers described were parked at the identified address prior to January 1, 2019. Signed written statements from neighbors, law enforcement personnel or other persons, not related to or affiliated in business with the applicant, affirming that they have personal knowledge of the parked trailers prior to January 1, 2019, will be acceptable. At least two such statements from two unrelated persons are required.
- (8) All other parts of this section not in conflict with this subsection shall apply.
- (9) Any violation of the special trailer permit conditions or any other part of this section shall result in automatic termination of the permit and the application of penalties prescribed by this code. The issuance of a citation for violating any part of this section shall be considered notice of termination of any issued permit and the permit holder shall immediately remove and surrender any decals attached to the permitted trailer.
- (10) Trailers shall be "not loaded" to be considered.
- (11) Permit will be granted if all the above are satisfied.

#### **Sec. 8.604 Exceptions**

The provisions of this article shall not apply to emergency vehicles, which include fire and police department vehicles, ambulances and public utility repair vehicles. This article shall not apply to city garbage trucks, city vehicles on official business or commercial vehicles with a gross weight more than the lawful maximum gross weight fixed by this article if such vehicles are traveling over city streets pursuant to legitimate business purposes and when no other route is practical. This exemption shall not apply to commercial vehicles on the prohibited streets for

overnight parking or for any purpose other than a commercial delivery necessitating travel over the otherwise prohibited city streets.

**Sec. 8.605 Penalty for Violations**

Any person violating any provision of this article shall be civilly liable to the City of Plum Grove for damages to any street, road, highway or bridge located within the corporate limits. In addition, any person violating any part of this article shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by a fine. Each day that a violation occurs shall be deemed a separate offense.

**Sec. 8.606 Enforcement**

The city manager shall have the authority to instruct the city attorney to sue pursuant to this article, including a suit for temporary restraining order and temporary/permanent injunctions against persons violating this article.

**Sec. 8.607 Special Permit and Fee Structure for Oversize Loads**

- (b) The fee for the aforesaid special city permit is hereby established and set as provided in the fee schedule found in the appendix to this code.
- (c) A special city permit shall be good for only one (1) transport and is nontransferable.
- (d) The requirement for this special city permit shall be registered with the TXDOT permitting office at the department's regional office in Beaumont, Texas.
- (e) The city's police department is authorized to issue these special city permits and will monitor oversize and overweight transports to ensure that a special city permit has been or is secured by the transport operator. Additionally, the police department is authorized to secure the installation of a credit card payment system in the dispatch area of said department, same to facilitate payment for the subject special city permit.

# CHAPTER 9

## UTILITIES & SOLID WASTE

*Division 1: On-Site Sewage Disposal Systems*

### ARTICLE 9.100 GENERAL PROVISIONS

#### Sec. 9.101 Policy and Purpose

It is the public policy of this state and the purpose of this chapter to:

- (1) eliminate and prevent health hazards by regulating and properly planning the location, design, construction, installation, operation, and maintenance of on-site sewage disposal systems;
- (2) authorize the commission or authorized agent to impose and collect a permit fee for:
  - (A) construction, installation, alteration, repair, or extension of on-site sewage disposal systems; and
  - (B) tests, designs, and inspections of those systems;
- (3) authorize the commission or authorized agent to impose a penalty for a violation of this chapter or a rule adopted under this chapter;
- (4) authorize the commission to license or register certain persons; and
- (5) allow the individual owner of a disposal system to install and repair the system in accordance with this chapter.

#### Sec. 9.102 Definitions

In this chapter:

Authorized agent. Shall mean a local governmental entity authorized by the commission to implement and enforce rules under this chapter.

Commission. Shall mean the Texas Natural Resource Conservation Commission.

Local governmental entity. Shall mean a municipality, county, river authority, or special district, including an underground water district, soil and water conservation district, or public health district.

Nuisance.

- (1) sewage, human excreta, or other organic waste discharged or exposed in a manner that makes it a potential instrument or medium in the transmission of disease to or between persons; or
- (2) an overflowing septic tank or similar device, including surface discharge from or groundwater contamination by a component of an on-site sewage disposal system, or a blatant discharge from an on-site sewage disposal system.

On-site sewage disposal system. Shall mean one or more systems of treatment devices and disposal facilities that:

- (1) produce not more than 5,000 gallons of waste each day; and
- (2) are used only for disposal of sewage produced on a site on which any part of the system is located.

Owner. Shall mean a person who owns a building or other property served by an on-site sewage disposal system.

Sewage. Shall mean waste that:

- (1) is primarily organic and biodegradable or decomposable; and
- (2) generally, originates as human, animal, or plant waste from certain activities, including the use of toilet facilities, washing, bathing, and preparing food.

### **Sec. 9.103 Immunity**

The commission, an authorized agent, or a designated representative is not liable for damages resulting from the commission's or authorized agent's approval of the installation and operation of an on-site sewage disposal system.

### **Sec. 9.104 Compliance Required**

A person may not construct, alter, repair, or extend, or cause to be constructed, altered, repaired, or extended, an on-site sewage disposal system that does not comply with this chapter and applicable rules.

### **Sec. 9.105 Notice of Utility Service Connections**

- (a) An electric utility shall compile a list weekly for each county in this state of the addresses located in an unincorporated area of the county at which the electric utility has made new electric service connections during the preceding week. The electric utility shall submit the list to the county judge of the county, or to a county officer or employee designated by the county judge, who shall forward the list to each authorized agent having

jurisdiction over an area in which an address on the list is included. The authorized agent may use the list for implementing and enforcing rules under this chapter. This section does not apply to a reconnection of service to a location previously served.

- (b) An electric utility may not be held liable for a claim arising from the provision of information under this section.
- (c) Information provided by a utility under this section is confidential and not subject to disclosure, or otherwise, except as provided by this section.
- (d) The county judge shall forward the list compiled under Subsection (a) to each appraisal district and each emergency communication district in the county.
- (e) In this section:
  - (1) *Electric utility*. Shall mean an investor-owned utility, electric cooperative corporation, river authority, or municipally owned utility that provides distribution service to retail customers of electricity.

#### **ARTICLE 9.200 GENERAL POWERS AND DUTIES OF COMMISSION AND AUTHORIZED AGENTS**

##### **Sec. 9.201 General Supervision and Authority**

The commission or authorized agents:

- (1) have general authority over the location, design, construction, installation, and proper functioning of on-site sewage disposal systems; and
- (2) shall administer this chapter and the rules adopted under this chapter.

##### **Sec. 9.202 Rules Concerning On-Site Sewage Disposal Systems**

- (a) To assure the effective and efficient administration of this chapter, the commission shall:
  - (1) adopt rules governing the installation of on-site sewage disposal systems, including rules concerning the:
    - (A) review and approval of on-site sewage disposal systems; and
    - (B) temporary waiver of a permit for an emergency repair; and
  - (2) adopt rules under this chapter that:

- (A) encourage the use of economically feasible alternative techniques and technologies for on-site sewage disposal systems that can be used in soils not suitable for conventional on-site sewage disposal;
  - (B) address the separation of graywater, in a residence served by an on-site sewage disposal system;
  - (C) allow for an adjustment in the size required of an on-site sewage disposal system if the system is used in conjunction with a graywater system; and
  - (D) require on-site sewage disposal systems, including risers and covers, installed after September 1, 2012, to be designed to prevent access to the system by anyone other than:
    - (i) the owner of the system; or
    - (ii) a person described by Section 9.501(a) or (b).
- (b) In rules adopted under this chapter, the commission shall include definitions and detailed descriptions of good management practices and procedures for the construction of on-site sewage disposal systems that:
- (1) justify variation in field size or in other standard requirements;
  - (2) promote the use of good management practices or procedures in the construction of on-site sewage disposal systems;
  - (3) require the use of one or more specific management practices or procedures as a condition of approval of a standard on-site sewage disposal system if, in the opinion of the commission or authorized agent, site conditions or other problems require the use of additional management practices or procedures to ensure the proper operation of an on-site sewage disposal system; and
  - (4) make available general, operational information to the public.

**Sec. 9.203 Installation and Use of Water Softeners and Reverse Osmosis Systems**

- (a) Except as provided by Subsection (b), an owner may install or use a water softener that discharges effluent into an on-site sewage disposal system only if the installed water softener:
- (1) conserves water by design;
  - (2) regenerates using a demand-initiated regeneration control device, commonly known as a DIR device; and

- (3) is clearly labeled as being equipped with a DIR device, with the label affixed to the outside of the system so that it may be inspected and easily read.
- (b) An owner may use a water softener that discharges effluent into an on-site sewage disposal system and that does not meet the requirements of Subsection (a) if the water softener was installed before September 1, 2003. The owner must replace the water softener with a water softener that meets the requirements of Subsection (a) if the owner:
  - (1) replaces the water softener; or
  - (2) installs a new on-site sewage disposal system for the building or other property served by the existing system.
- (c) An owner may install and use a point-of-use reverse osmosis system that discharges effluent into an on-site sewage disposal system.
- (d) An owner may install and use a point-of-entry reverse osmosis system that discharges effluent into an on-site sewage disposal system if the calculated volume of effluent:
  - (1) does not cause hydraulic overloading; or
  - (2) has been adequately addressed in the design of the on-site sewage disposal system.
- (e) This section does not apply to an aerobic, nonstandard, or proprietary on-site sewage treatment system unless the water softener drain line to the system bypasses the treatment system and flows into the pump tank or directly into the discharge method.
- (f) The commission by rule shall adopt and implement standards for the use of water softeners and reverse osmosis systems in a building or other property served by an on-site sewage disposal system.

#### **Sec. 9.204 Designated Person**

Subject to the requirements of Section 9.501(b), the commission or an authorized agent may designate a person to:

- (1) review permit applications, site evaluations, or planning materials; or
- (2) inspect on-site sewage disposal systems.

#### **Sec. 9.205 Emergency Orders**

The commission or authorized agent may issue an emergency order concerning an on-site sewage disposal system.

**Sec. 9.206 Required Repairs; Penalty**

- (a) The commission or authorized agent may require a property owner to repair a malfunctioning on-site sewage disposal system on the owner's property:
  - (1) not later than the 30th day after the date on which the owner is notified by the commission or authorized agent of the malfunctioning system if the owner has not been notified of the malfunctioning system during the preceding 12 months;
  - (2) not later than the 20th day after the date on which the owner is notified by the commission or authorized agent of the malfunctioning system if the owner has been notified of the malfunctioning system once during the preceding 12 months; or
  - (3) not later than the 10th day after the date on which the owner is notified by the commission or authorized agent of the malfunctioning system if the owner has been notified of the malfunctioning system at least twice during the preceding 12 months.
- (b) The property owner must take adequate measures as soon as practicable to abate an immediate health hazard.
- (c) The property owner may be assessed an administrative or a civil penalty for each day that the on-site sewage disposal system remains unrepaired.

**ARTICLE 9.300 DESIGNATION OF LOCAL GOVERNMENTAL ENTITY AS AUTHORIZED AGENT**

**Sec. 9.301 Designation**

- (a) The commission shall designate a local governmental entity as an authorized agent if the governmental entity:
  - (1) notifies the commission that the entity wants to regulate the use of on-site sewage disposal systems in its jurisdiction;
  - (2) in accordance with commission procedures, holds a public hearing and adopts an order or resolution that complies with Section 9.302; and
  - (3) submits the order or resolution to the commission.
- (b) The commission in writing may approve the local governmental entity's order or resolution, and the designation takes effect only when the order or resolution is approved.

**Sec. 9.302 Order or Resolution; Requirements**

- (a) The local governmental entity's order or resolution must:
  - (1) incorporate the commission's rules on abatement or prevention of pollution and the prevention of injury to the public health;
  - (2) meet the commission's minimum requirements for on-site sewage disposal systems; and
  - (3) include a written enforcement plan.
- (b) If the order or resolution adopts more stringent standards for on-site sewage disposal systems than this chapter or the commission's standards and provides greater public health and safety protection, the authorized agent's order or resolution prevails over this chapter or the standards.
- (c) An authorized agent must obtain commission approval of substantive amendments to the agent's order or resolution.

**Sec. 9.303 Delegation to Local Governmental Entities**

The commission shall delegate to local governmental entities responsibility for the implementation and enforcement of applicable rules.

**Sec. 9.304 Investigation of Authorized Agents**

- (a) The commission shall:
  - (1) conduct not more often than once a year an investigation of each authorized agent to determine the authorized agent's compliance with this chapter; and
  - (2) prepare an annual report concerning the status of the local governmental entity's regulatory program.
- (b) If the commission determines that an authorized agent does not consistently enforce the commission's minimum requirements for on-site sewage disposal systems, the commission shall hold a hearing and determine whether to continue the designation as an authorized agent.

**Sec. 9.305 Mandatory Application for and Maintenance of Designation**

A local governmental entity that applies to the Texas Water Development Board for financial assistance under a program for economically distressed areas must take all actions necessary to receive and maintain a designation as an authorized agent of the commission.

**Sec. 9.306 County Map**

- (a) If the commission designates a local governmental entity as its authorized agent and if the entity intends to apply to the Texas Water Development Board for financial assistance under a program for economically distressed areas, the commissioners court of the county in which the entity is located shall prepare a map of the county area outside the limits of municipalities. The entity shall give to the commissioners court a written notice of the entity's intention to apply for the assistance. The map must show the parts of the area in which the different types of on-site sewage disposal systems may be appropriately located and the parts in which the different types of systems may not be appropriately located.
- (b) The commissioners court shall file the map in the office of the county clerk.
- (c) The commissioners court, at least every five years, shall review the map and make changes to it as necessary to keep the map accurate.

## **ARTICLE 9.400 PERMITS; FEES**

### **Sec. 9.401 Permits**

- (a) A person must hold a permit and an approved plan to construct, alter, repair, extend, or operate an on-site sewage disposal system.
- (b) If the on-site sewage disposal system is in the jurisdiction of an authorized agent, the permit is issued by the authorized agent; otherwise, the permit is issued by the commission.
- (c) A person may not begin to construct, alter, repair, or extend an on-site sewage disposal system that is owned by another person unless the owner or owner's representative shows proof of a permit and approved plan from the commission or authorized agent.

### **Sec. 9.402 Multiple Treatment Systems**

A multiple system of treatment devices and disposal facilities may be permitted as an on-site disposal system under this chapter if the system:

- (1) is located on a tract of land of at least 100 acres in size;
- (2) produces not more than 5,000 gallons a day on an annual average basis;
- (3) is used only on a seasonal or intermittent basis; and
- (4) is used only for disposal of sewage produced on the tract of land on which any part of the system is located.

### **Sec. 9.403 Maintenance Contract and Performance Bond**

- (a) Except as provided by Subsection (g), an authorized agent or the commission may not condition a permit or the approval of a permit for an on-site sewage disposal system using aerobic treatment for a single-family residence on the system's owner contracting for the maintenance of the system.
- (b) Except as provided by Subsection (a), an authorized agent by order or resolution or the commission by rule may condition approval of a permit for an on-site sewage disposal system on the system's owner contracting for the maintenance of the system. If a maintenance contract is required, the owner of the on-site sewage disposal system must submit to the permitting authority:
  - (1) a signed contract for the maintenance of the on-site sewage disposal system; and
  - (2) if the on-site sewage disposal system is in a county with a population of more than 2.8 million, a performance bond obtained from the person with whom the owner of the on-site sewage disposal system has contracted for maintenance of the system.
- (c) A performance bond required by Subsection (b) must be:
  - (1) solely for the protection of the owner of the on-site sewage disposal system;
  - (2) conditioned on the faithful performance of the maintenance of the on-site sewage disposal system in accordance with plans, specifications, laws, regulations, and ordinances of the state and the authorized agent;
  - (3) in an amount reasonably related to the cost that the owner of the on-site sewage disposal system would incur if the maintenance company did not adhere to maintenance standards or comply with applicable statutes, rules, or ordinances;
  - (4) executed by a corporate surety;
  - (5) in a form approved by the permitting authority; and
  - (6) payable to the owner of the on-site sewage disposal system.
- (d) If the owner of the on-site sewage disposal system enters into a new maintenance contract or revises the original maintenance contract, the owner must submit a copy of the new or revised maintenance contract and a new performance bond to the permitting authority not later than the 30th day after the date on which the original contract terminates or is modified.
- (e) The permitting authority may establish and collect a reasonable fee to cover the cost of administering the performance bond program.

- (f) The installer of an on-site sewage disposal system shall provide the owner of the system with information regarding maintenance of the system at the time the system is installed.
- (g) The owner of a single-family residence shall maintain the system directly or through a maintenance contract. If an authorized agent or the commission determines that an owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly has violated this chapter or a rule adopted or order or permit issued under this chapter, the owner, not later than the 10th day after the date of receipt of notification of the violation, shall correct the violation or enter into a contract for the maintenance of the system. If before the third anniversary of the date of the determination the owner is determined to have committed another violation of this chapter or a rule adopted under this chapter, the owner, not later than the 10th day after the date of receipt of notification of the subsequent violation, shall enter into a contract for the maintenance of the system. An owner of a single-family residence located in a county with a population of at least 40,000 who maintains the owner's system directly and who violates this chapter, or a rule adopted, or order or permit issued under this chapter is also subject to an administrative penalty. The commission may recover the penalty in a proceeding, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. The amount of the penalty may not exceed \$100.
- (h) If, under Subsection (b), an authorized agent or the commission conditions approval of a permit for an on-site sewage disposal system using aerobic treatment on the system's owner contracting for the maintenance of the system, the order, resolution, or rule may require the maintenance company to:
  - (1) inspect the system at specified intervals;
  - (2) submit a report on each inspection to the authorized agent or commission; and
  - (3) provide a copy of each report submitted under Subdivision (2) to the system's owner.
- (i) A maintenance company that violates a provision of an order, resolution, or rule described by Subsection (h) is subject to an administrative penalty. The commission may recover the penalty in a proceeding, or the authorized agent may recover the penalty in a proceeding conducted under an order or resolution of the agent. The amount of the penalty for the first violation of that order, resolution, or rule is \$200, and the amount of the penalty for each subsequent violation is \$500.
- (j) If a maintenance company violates an order, resolution, or rule described by Subsection (h) three or more times, the commission may revoke the license or registration of the maintenance company or any person employed by the maintenance company issued under:

- (1) Section 9.501 of this code.

**Sec. 9.404 Permit Not Required for On-Site Sewage Disposal on Certain Single Residences**

- (a) Sections 9.401, 9.405, 9.406, and 9.409 do not apply to an on-site sewage disposal system of a single residence that is located on a land tract that is 10 acres or larger in which the field line or sewage disposal line is not closer than 100 feet of the property line.
- (b) Effluent from the on-site sewage disposal system on a single residence:
  - (1) must be retained in the specified limits;
  - (2) may not create a nuisance; and
  - (3) may not pollute groundwater.

**Sec. 9.405 Permit Application**

- (a) Application for a permit must:
  - (1) be made on a form provided by the commission or authorized agent; and
  - (2) include information required by the commission or authorized agent to establish that the individual sewage disposal system complies with this chapter and rules adopted under this chapter.
- (b) The commission shall adopt rules and procedures for the submission, review, and approval or rejection of permit applications.

**Sec. 9.406 Notice from Installer**

An installer may not begin construction, alteration, repair, or extension of an on-site sewage disposal system unless the installer notifies the commission or authorized agent of the date on which the installer plans to begin work on the system.

**Sec. 9.407 Inspections**

- (a) The commission or authorized agent shall review a proposal for an on-site sewage disposal system and make inspections of the system as necessary to ensure that the on-site sewage disposal system is in substantial compliance with this chapter and the rules adopted under this chapter.

- (b) An on-site sewage disposal system may not be used unless it is inspected and approved by the commission or the authorized agent.
- (c) A holder of a permit issued under this chapter shall notify the commission, the authorized agent, or a designated representative not later than the fifth working day before the proposed date of the operation of an installation that the installation is ready for inspection.
- (d) The inspection shall be made on a date and time mutually agreed on by the holder of a permit and the commission, the authorized agent, or a designated representative.
- (e) An installation inspection shall be made not later than the second working day, excluding holidays, after the date on which notification that the installation is completed and ready for inspection is given to the commission, the authorized agent, or a designated representative.
- (f) The owner, owner's representative, or occupant of the property on which the installation is located shall give the commission, the authorized agent, or a designated representative reasonable access to the property at reasonable times to make necessary inspections.

**Sec. 9.408 Approval of On-Site Sewage Disposal System**

- (a) The commission or authorized agent may approve or disapprove the on-site sewage disposal system depending on the results of the inspections under Section 9.407.
- (b) If a system is not approved under this section, the on-site sewage disposal system may not be used until all deficiencies are corrected and the system is reinspected and approved by the commission or authorized agent.

**Sec. 9.409 Permit Issuance**

- (a) The commission shall issue or authorize the issuance of permits and other documents.
- (b) A permit and approved plan to construct, alter, repair, extend, or operate an on-site sewage disposal system must be issued in the name of the person who owns the system and must identify the specific property location or address for the specific construction, alteration, extension, repair, or operation proposed by the person.
- (c) The commission may not issue a permit to construct, alter, repair, or extend an on-site sewage disposal system if the issuance of a permit conflicts with other applicable laws or public policy under this chapter.

**Sec. 9.410 Permit Fee**

- (a) The commission by rule shall establish and collect a reasonable permit fee to cover the cost of issuing permits under this chapter and administering the permitting system. The commission may also use the fee to cover any other costs incurred to protect water resources in this state, including assessment of water quality, reasonably related to the activities of any of the persons required to pay a fee.
- (b) The commission at its discretion may provide variances to the uniform application of the permit fee.
- (c) Fees collected under this section shall be deposited to the credit of the water resource management account.

**Sec. 9.411 Permit Fee Paid to Department or Authorized Agent**

- (a) The permit fee shall be paid to the authorized agent or the commission, whichever performs the permitting function.
- (b) The commission may assess a reasonable and appropriate charge-back fee, not to exceed \$500, to a local governmental entity for which the commission issued permits for administrative costs relating to the permitting function that are not covered by the permit fees collected. The commission shall base the amount of a charge-back fee under this subsection on the actual cost of issuing a permit under this section. The commission may assess a charge-back fee to a local governmental entity under this subsection if the local governmental entity is an authorized agent that:
  - (1) has repealed the order, ordinance, or resolution that established the entity as an authorized agent; or
  - (2) has had its authorization as an authorized agent revoked by the commission.
- (c) Fees collected under this section shall be deposited to the credit of the water resource management account.
- (d) The commission may not assess a charge-back fee to a local governmental entity if the local governmental entity has repealed the order, ordinance, or resolution that established the entity as an authorized agent or has lost its designation as an authorized agent due to material change in the commission's rules under this chapter.

**ARTICLE 9.500 REGISTRATION OF INSTALLERS**

**Sec. 9.501 Occupational Licensing and Registration**

- (a) A person who constructs, installs, alters, extends, services, maintains, or repairs an on-site sewage disposal system or any part of an on-site sewage disposal system for compensation must hold a license or registration issued by the commission.

- (b) A person designated by an authorized agent under Section 9.204 must hold a license issued by the commission.
- (c) A person who conducts preconstruction site evaluations, including visiting a site and performing a soil analysis, a site survey, or other activities necessary to determine the suitability of a site for an on-site sewage disposal system must hold a license issued by the commission, unless the person is licensed by the Texas Board of Professional Engineers as an engineer.
- (d) The commission may implement a program to register persons who service or maintain on-site sewage disposal systems for compensation.

### **ARTICLE 9.600 PENALTIES**

#### **Sec. 9.601 Injunction or Civil Suit**

- (a) If it appears that a person has violated, is violating, or is threatening to violate any provision of this chapter, or any rule, permit, or other order of the commission issued pursuant to this chapter, an authorized agent or, at the request of the commission, the attorney general may bring a civil suit for:
  - (1) mandatory or prohibitory injunctive relief, as warranted by the facts;
  - (2) a civil penalty as provided by this chapter; or
  - (3) both injunctive relief and civil penalty.

#### **Sec. 9.602 Commission Enforcement at Local Government Request**

A local government may request that the commission initiate an enforcement action under this chapter through a petition filed with the commission. If the commission chooses to initiate an enforcement action on behalf of a local government, civil penalties recovered shall be divided between the local government and the state based on the proportion of resources expended by each entity during enforcement action.

#### **Sec. 9.603 Fees and Costs Recoverable**

If an authorized agent or the state prevails in a suit under this subchapter, it may recover reasonable attorney's fees, court costs, and reasonable investigative costs incurred in relation to the proceeding.

*Division 2: Groundwater*

### **ARTICLE 9.700 GROUNDWATER REGULATIONS FOR PRIVATE WELLS**

**Sec. 9.701 Generally**

State law does not provide any state agency with the authority to regulate the use or production of groundwater. Groundwater production and use is managed and regulated by local or regional Groundwater Conservation Districts (GCDs).

**Sec. 9.702 Terms and Definitions**

City. City of Plum Grove

GCDs. Groundwater Conservation Districts

**Sec. 9.703 Rule of Capture**

The City does not fall within a GCD. Areas that are not within a GCD are subject to the rule of capture that essentially provides that groundwater, once it has been captured by a well and produced to the surface, belongs to the landowner. Limitations to the rule of capture include:

- (1) capture and use of groundwater cannot be done maliciously with the purpose of injuring a neighbor or amount to willful waste of the resource
- (2) a landowner is liable for damages if his negligent pumping of groundwater results in the subsidence of neighboring land (that is, lowering in elevation of the land surface caused by the withdrawal of groundwater).

# CHAPTER 10

## PLANNING & ZONING

### ARTICLE 10.100 GENERAL PROVISIONS

#### Sec. 10.101 Title

The regulations of this chapter may be cited and referred to as the planning and zoning chapter for the City of Plum Grove, Texas.

#### Sec. 10.102 Purpose

The purpose of the planning and zoning chapter is to establish regulations in accordance with the comprehensive master plan in order to maintain and stabilize the value of property; to reduce fire hazards, improve public safety, and safeguard the public health; to decrease traffic congestion and its accompanying hazards; to provide adequate light and air; to prevent concentration of population; and to create a comprehensive and stable pattern of land uses upon which to plan for transportation, water supply, sewage, schools, parks, public utilities, and other facilities.

#### Sec. 10.103 Interpretation

In interpreting and applying the provisions of this chapter, they shall be held to be the minimum requirements for the promotion of public health, safety, comfort, convenience, and general welfare.

#### Sec. 10.104 Authority

This chapter is adopted under the authority of the Constitution and laws of the State of Texas and the Plum Grove City Charter.

### ARTICLE 10.200 DEFINITIONS

#### Sec. 10.201 General

- (a) The following definitions apply only to this chapter. In the event of conflict with other definition contained in the City of Plum Grove Code, these definitions will control. Unless specifically defined below, 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.
- (b) The term “shall” is mandatory. The term “may” is discretionary. The term “and” indicates that all items being referred to are connected and inclusive. The term “or” indicates that one or more of the items being referred to shall or may apply.

**Sec. 10.202 Terms and Definitions**

City. City of Plum Grove, Texas.

Comprehensive Master Plan. The planning documents and related material officially adopted by the City of Plum Grove, containing the goals, objectives and policies pertaining to urban growth, community facilities, infrastructure, circulation, housing and other subjects related to the development of the city.

City Council. The city council of the City of Plum Grove, Texas.

City Manager. The city manager of the City of Plum Grove, Texas.

Developer. The legal or beneficial owner(s) of land included in a proposed development, including the holder of an option or contract to purchase, or other persons having enforceable proprietary interest in such land. Also, any person, developer, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land as herein defined.

Development. The subdivision of land; any man-made change to improved or unimproved real estate, including but not limited to the construction, reconstruction, conversion, or enlargement of any structure; and any mining, dredging, filling, grading, paving, excavation or drilling operations.

Extraterritorial Jurisdiction (ETJ). The unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the City of Plum Grove and delineated per Ordinance 2023 and recorded as file number 2017007677 of the Official Public Record of Liberty County, Texas.

Planning Commission. The planning commission of the City of Plum Grove, as created by the city charter.

Platting. Constructing a proposed land subdivision showing the character and proposed layout of the tract in enough detail in accordance to applicable laws of the State of Texas, city, county, and any other applicable entity.

Subdivision. The division of any lot, tract, or parcel of land into two or more parts for sale or of building development. Such term also includes the resubdivision or platting of any lot, tract, or parcel of land.

**ARTICLE 10.300 ENFORCEMENT AND PENALTIES**

**Sec. 10.301 General**

- (a) It shall be the duty of the director of planning and community development to enforce this article and to bring to the attention of the city attorney or other appropriate authority any violations or lack of compliance herewith.

- (b) A violation notice shall be sent by certified mail, postage pre-paid, return receipt requested, to the property owner of which the violation is taking place. The notice shall contain on the violation description, location of property, date of noticed infraction, steps to correct, and deadline to correct infraction.
- (c) The deadline to correct, remedy and/or remove all the violation(s), which is at the discretion of the director, but which in no case may be longer than fifteen (15) days from the date of mailing the letter.
- (d) Correction of the violation in the manner stipulated by the violation notice at any point during this enforcement process, shall deem the notice null and void, and enforcement activity shall cease.

**Sec. 10.302 Enforcement Remedies**

Any person, firm, or corporation who fails to comply with, or violates, any part of this chapter shall be subject to either or a combination of withholding of permits, stop work order, abatement, injunctive relief, recover of damages, and any other remedies allowed under state and federal law.

**Sec. 10.303 Variances, Exceptions and Waiver of Conditions**

- (a) Generally. Where the planning commission finds that an unnecessary and extraordinary hardship would result from strict adherence to Subdivision Regulations and the Planning and Zoning Ordinance of the Plum Grove Code of Ordinances and the purposes of these ordinances may be served by an alternative proposal, the planning commission may recommend the approval of variances to these ordinances to the city council. Variances may be granted so that substantial justice may be done, and the public interest secured, provided that such variances shall not have the effect of violating the intent and purpose of these ordinances. Furthermore, the planning commission shall not recommend approval of variances to the city council unless it shall make findings based upon the evidence presented to it in each specific case that:
  - (1) The granting of the variance will not be detrimental to the public safety, health, or welfare, be injurious to surrounding property or violate the intent and purpose of the regulation;
  - (2) The granting of the variance is not based on a hardship which is self-imposed;
  - (3) The hardship is not based solely on the cost of complying with the regulation, but is based on the physical surroundings, shape, or topographical conditions of the specific property involved;
  - (4) The hardship is based on circumstances which are unique to the property for which the variance is sought and not circumstances common to other properties;

- (5) The relief sought will not in any manner vary the provisions of the comprehensive master plan or any city ordinance, except that those documents may be amended in the manner prescribed by law.
- (b) Conditions. In recommending approval of variances to the city council, the planning commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements of this chapter.
- (c) Procedures.
- (1) Application. An application for any variance shall be submitted in writing to the director of planning and community development at the time when, if required, the preliminary plat is filed for consideration by the planning commission. If the variance is not submitted in association with a plat, the application shall be submitted by the deadline set forth in an approved submittal schedule by the department of planning and community development. The applicant(s) shall be the owner(s) or legal agent for the owner(s) of the subject property. The variance application shall include the following:
- (A) A completed variance application form;
  - (B) The appropriate fee;
  - (C) Site plan;
  - (D) Building plans, floor plans or architectural elevations, if applicable;
  - (E) Letter describing the reasons and/or hardship for the request, stating fully the grounds for the variance and all the facts relied upon by the petitioner.
- (2) Public Hearing Requirements. Each variance request shall be considered at a public hearing before the planning commission. Notice of such public hearing shall be required as follows:
- (A) Newspaper. Due notice, in the form provided by the director of planning and community development, of a variance public hearing shall be published in a newspaper of general circulation within the city limits of Plum Grove, at least fifteen (15) days prior to the date of the public hearing.
  - (B) Mail. Due notice, in the form provided by the director of planning and community development, of a variance public hearing shall also be given by mail to all owners of surface property identified on the most recently approved Liberty County Appraisal District tax roll, located within two hundred (200) feet of the affected property; required mailings must be made at least ten (10) days prior to the public hearing date. Notification to owners of property annexed into the city after the certification of the city tax roll, shall be met by the required notice in the

newspaper. Failure of owners to receive notice of hearing shall not affect the validity of action.

(C) Content of Public Hearing Notice. The contents of the public hearing notice shall, at a minimum, contain the following information:

- (i) The name of the owner, applicant, engineer, architect or other parties involved;
- (ii) Lot, block and address of the subject property;
- (iii) A description of the application being made;
- (iv) A description of the ordinance section which is applicable to the subject application; and
- (v) The address and building location, date and time in which the application will be considered.

The notice shall also indicate the necessary information for obtaining assistance for physically impaired persons who wish to attend the hearing.

(D) Cost. The preparation of the notice of public hearing and required mailing list shall be the responsibility of the planning and community development department. The cost of publication and mailing of the required notice of public hearing shall be borne directly by the applicant.

(E) Attendance by Applicant at Public Hearing. An applicant or his/her representative who applies, which requires a public hearing, is required to attend the public hearing at which the subject application is to be considered. Failure on the part of the applicant or his/her representative to appear at a public hearing for which notice has been properly given, shall constitute grounds for a continuance of any action on the application until proper notice is given to the applicant for the next meeting at which the application will be considered.

(3) Planning Commission Action. The planning commission shall either recommend approval or denial of the variance to the city council. The planning commission's action shall be entered the minutes of the planning commission meeting, specifying the reason(s) which justified the denial or recommendation of approval or denial of the variance. In the event of a recommendation of denial by the planning commission the applicant shall have seven (7) days in which to notify the director of planning in writing that appeal to the city council shall be processed; otherwise, the denial becomes final.

#### **Sec. 10.304 Amendments**

For protecting the public health, safety and general welfare, the planning commission may from time to time propose amendments to these regulations which shall then be approved or disapproved by city council at a public hearing following public notice.

**Sec. 10.305 Fees**

Fees which apply to plan reviews, filings, variance processing and any other fees required by this article, shall be established by the city council, outlined in the fee schedule of the city code of ordinances and may be revised as necessary by the city council.

**ARTICLE 10.400 VARIANCES, EXCEPTIONS AND WAIVER OF CONDITIONS**

**Sec. 10.401 Conditions, Limitations and Deadlines**

From the date of passage of this article, the city council shall provide as deemed necessary conditions, limitations, and/or deadlines to all variances, exceptions and/or waiver of conditions to any city code of ordinances. If such variances, exceptions and/or waiver of conditions are not completed and/or fulfilled in accordance with the assigned conditions, limitations and/or deadlines, such variances, exceptions and/or waiver of conditions shall become null and void, and a new application shall be required with the city.

# CHAPTER 11

## SIGNS

### ARTICLE 11.100 GENERAL PROVISIONS

#### Sec. 11.101 Purpose

The purpose of this chapter is to establish reasonable regulations for the design, construction, installation, and maintenance of all exterior signs within the city to:

- (1) Balance the right of individuals to identify their businesses and convey their messages and the right of the public to be protected against the unrestricted proliferation of signs;
- (2) Further the objectives of the city's comprehensive plan;
- (3) Protect the public health, safety, and welfare;
- (4) Reduce traffic hazards;
- (5) Facilitate the creation of an attractive and harmonious community;
- (6) Protect property values;
- (7) Promote economic development; and
- (8) Preserve the right of free speech exercised using signs containing noncommercial messages.

#### Sec. 11.102 Definitions

As used in this chapter, unless the context indicates otherwise:

Advertising. To seek the attraction of or to direct the attention of the public to any goods, services, business, activity, or merchandise of any kind or type.

Amateur Ballpark Signs. Those signs constructed, attached, hung, placed, suspended, affixed, or painted upon a structure in an amateur ballpark that seek the attention of or direct the attention of patrons of the ballpark to any goods, services, business, activities, or merchandise of any kind or type.

Business Establishment. Any property, building, or structure, permanent or temporary, used for conducting in said building or structure, or on said property, a legitimate commercial enterprise in compliance with all ordinances and regulations of the city governing such activity; business

establishment shall not include any property, building, or structure used for the primary purpose of securing a permit to erect a sign.

*Business Purposes.* The erection or use of any property, building, or structure, permanent or temporary, used for the purpose of conducting in said building or structure, or on said property, a legitimate commercial enterprise in compliance with all ordinances and regulations of the city governing such activity; business purpose shall not include any property, building, or structure erected or used for the primary purpose of securing a permit to erect a sign.

*City Manager.* The person appointed by the mayor and approved by the city council to administer, enforce, and carry out the terms and conditions of this chapter and all other provisions of laws or ordinances relating to signs. The term "city manager" includes the city manager's designee.

*Erect.* To build, construct, attach, hang, place, suspend, affix, or paint a sign.

*Facing or Surface.* The surface of the sign upon, against, or through which a message is displayed or illustrated on the sign.

*Illuminated Sign.* Any sign that has characters, letters, fixtures, designs, or outlines illuminated externally by electric lights or internally by luminous tubes or other devices.

*Incombustible Material.* Any material that will not ignite at or below a temperature of twelve hundred (1,200) degrees Fahrenheit and will not continue to burn or glow at that temperature.

*Monument Sign.* Any freestanding sign having a low profile and made of masonry, metal, rounded wood planks or beams, durable plastic or similar materials, including individual lettering, which repeat or harmonize with the architecture of the establishment it serves. Monument signs must be built on a monument base as opposed to a pole base.

*Multifamily Dwelling Complex.* A townhouse, condominium, or apartment complex of one (1) or more buildings or portions thereof located on a single tract of land that contain three (3) or more separate dwelling units that share means of egress and other essential facilities.

*Off-premises Sign.* Any sign advertising a business, person, activity, goods, products, or services not usually located on the premises where the sign is installed and maintained, or that directs persons to any location not on the premises.

*On-premises Sign.* Any sign identifying or advertising the person, activity, goods, business, products, or services primarily sold or offered for sale on the premises or property where the sign is installed and maintained when such premises is used for business purposes.

*Permittee.* A person receiving a sign permit pursuant to the provisions of this chapter.

*Person.* An individual, company, corporation, partnership, association, or any other entity.

Pole Sign. Any sign supported by one (1) or more columns, poles, uprights, or braces anchored in or on the ground and not attached to any building and as defined by the International Building Code.

Political Sign. A sign which is primarily political in nature or which supports or opposes any candidate for public office or any proposition to be voted upon at an election, or which makes a political statement constitutionally protected noncommercial free speech.

Portable Sign. Any sign designed or constructed to be easily moved from one (1) location to another and which is mounted upon or designed to be mounted upon a wheeled carrier or other framed structure.

Residential Purposes. Property devoted to use as a single-family or multifamily residence. Residential purposes shall include, but not be limited to, property used for houses, apartments, duplexes, condominiums, townhouses, townhomes, and patio homes; property used for hotels, motels, and boardinghouses shall not be considered as used for residential purposes.

Right-of-Way. Property or right-of-way owned by the city, county, or state and used for the purposes of roads, highways, drainage, and public utilities.

Shopping Center or Integrated Business Development. A commercial development, such as a strip center, mall, multitenant office building, commercial center, or industrial complex, in which two (2) or more separate businesses occupy a single or multiple structure which share on-site parking facilities and common driveways.

Sign. Any writing, pictorial representation, illustration, emblem, symbol, design, or other figure of similar character which is a structure or a part thereof or is attached to or in any manner represented on a building or other structure, is placed out of doors in view of the public, and is used for purposes of advertisement, announcement, declaration, demonstration, display, identification, or expression. The term sign shall include the sign structure.

Sign Permit. A permit issued by the city to erect a sign. Additionally, a sign permit refers to the continuing authorization by the city for the permit holder to maintain and operate a sign within the city while such sign conforms to the provisions of this chapter.

Sign Structure. Any structure, device, or system which supports or can support a sign.

Temporary Business Sign/Banner. Any sign, banner, pennant, or other advertising display constructed of cloth, canvas, light fabric, cardboard, or other light materials, with or without frames, with or without words, intended to be displayed for a limited period on the property of the business.

Wall Sign. Any sign mounted parallel to a wall of any building extending eighteen (18) inches or less horizontally from the structure to which it is affixed.

*Wind Device Sign.* Any flag, banner, pennant, streamer, balloon, or similar sign made of cloth, canvass, plastic, or other flexible material, with or without a frame or other supporting structure that moves or is designed or intended to move or blow in the wind.

## ARTICLE 11.200 PERMITS

### Sec. 11.201 Required

Except as provided in Section 11.201 hereof, it shall be unlawful for any person to erect, relocate, or structurally alter, any sign or other advertising structure as defined in this chapter, without first obtaining a sign permit from the city manager and paying the permit fee required by Section 11.204. Additionally, all illuminated signs shall be subject to the provisions of the city's electrical code and its requisite permit fees. No permit is required for change of copy or message or for repair, repainting, or maintenance that does not entail structural or size change.

### Sec. 11.202 Application

Application for a sign permit shall be made upon a form provided by the city manager and shall contain and have attached the following information:

- (1) The name, address, and telephone number of the applicant;
- (2) The location of the building, structure, or lot to which or upon which the sign or other advertising structure is to be attached or erected;
- (3) The location of the sign or other advertising structure in relation to nearby buildings or structures;
- (4) Two (2) blueprints or drawings of the plans and specifications of the sign and a description of the proposed method of construction and attachment to the building or on the ground;
- (5) A certification and/or calculation showing that the sign is designed to meet the wind pressure and dead load requirements of the International Building Code and all other laws and ordinances of the city. The city manager may require such certification and calculation to be made by a registered professional engineer if the sign is more than seven feet in height or 100 square feet in area;
- (6) The name of the person erecting the sign;
- (7) The written consent of the owner of the building, structure, or land to which or on which the sign is to be erected;
- (8) Any required electrical permit;

- (9) Such other information as the city manager shall require showing full compliance with this and all other laws and ordinances of the city.

#### **Sec. 11.203 Issuance**

Upon the filing of an application for a sign permit, the city manager shall:

- (1) Examine the plans and specifications and the premises upon which the proposed sign shall be erected; and
- (2) Issue a permit if the proposed sign complies with the requirements of this chapter and all other laws and ordinances of the city. If the work authorized under a sign permit is not completed within six (6) months after the date of issuance, the permit shall become null and void.

#### **Sec. 11.204 Fee**

Every applicant, prior to issuance of a permit pursuant to Section 11.203 hereof, shall pay to the city a nonrefundable fee, in accordance with the International Building Code hereof and on file with the city manager, for each sign or other advertising structure regulated by this chapter.

#### **Sec. 11.205 Variances**

Within thirty (30) days after denial of a sign permit by the city manager, a request for variance may be filed with the city council. The city council may grant a variance and relax the terms of this chapter where such variance will not be contrary to the public interest and where, because of conditions peculiar to the property and not as the result of the actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship.

#### **Sec. 11.206 Revocation**

The mayor or city manager may revoke any permit where there has been a violation of the provisions of this chapter or a misrepresentation of fact on the permit application.

#### **Sec. 11.207 Number; Date and Voltage**

- (a) Every permitted sign or other advertising structure shall display in a conspicuous place on such sign or structure, in letters no less than one (1) inch in height, the date of erection; the permit number, and the voltage of any electrical apparatus used.
- (b) The top of all signs and sign structures shall have a minimum vertical clearance from any other structure of fourteen (14) feet and shall have a clearance equal to its height horizontally as well as vertically (minimum often (10) feet) from any electric transmission line carrying seven hundred fifty (750) volts or greater.

#### **Sec. 11.208 Control of Outdoor Advertising Signs**

The city recognizes the state department of transportation's control of outdoor advertising signs' regulations pursuant to the Texas Highway Beautification Act, Transportation Code, chapter 391 and title 43, Texas Administrative Code, chapter 43, subchapter I, within the incorporated city limits with the intention to not decrease or lessen in any way with any such state or federal outdoor advertising sign requirements.

### **ARTICLE 11.300 TYPES OF SIGNS**

#### **Sec. 11.301 Exempt Signs**

The following signs are allowed and are exempt from the permit requirements of this chapter:

- (1) Signs not visible from a public street;
- (2) Window and door signs;
- (3) Temporary real estate signs not exceeding sixteen (16) square feet in area that advertise the sale, rental, or lease of the premises upon which the sign is located. Such signs shall be removed not later than the seventh day following the sale, rental, or lease of the subject property. Such signs shall only be located on private property;
- (4) Political signs on private real property in accordance with section 216.903 of Texas Local Government Code with the consent of the property owner. Private real property does not include real property subject to an easement or other encumbrance that allows a municipality to use the property for a public purpose. Provided, however, the sign may not have a sign area greater than thirty-six (36) square feet, be more than eight (8) feet in height, be illuminated or have a moving part. This subsection does not apply to a sign, including a billboard, that contains primarily a political message on a temporary basis and that is generally available for rent or purchase to carry commercial advertising or other measures that are not primarily political;
- (5) Vehicle signs except those described in Section 11.302(11);
- (6) Temporary signs advertising the date, time, and location of a garage or yard sale and not exceeding four (4) square feet in area. Such signs shall be erected not more than three (3) days prior to and removed not later than one (1) day after the date of the sale;
- (7) Signs which are an integral part of the historical character of a designated historic district or a building that has been designated a landmark;
- (8) Public signs regulating vehicular or pedestrian traffic or designating or giving direction to streets, schools, hospitals, historical sites, or public facilities;

- (9) Flags of any government or governmental agency or any patriotic, religious, charitable, civic, educational, or fraternal organization and not exceeding forty (40) square feet in area;
- (10) Temporary signs advertising special community events or other community activities sponsored by nonprofit organizations or churches. Such signs shall not exceed thirty-two (32) square feet in area, shall not be erected more than ten (10) days in advance of the event and shall be removed within three (3) days after such event. Temporary signs shall be securely anchored and shall not exceed seven (7) feet in height from ground level;
- (11) Temporary displays or decorations customarily associated with any national, state, local, or religious holiday or celebration. Such signs shall be erected not more than forty-five (45) days before the holiday or celebration and removed not later than ten (10) days after such holiday or celebration;
- (12) Handheld signs of a noncommercial nature not set on or affixed to the ground and not exceeding ten (10) square feet in area;
- (13) Temporary signs identifying the architect, engineer, developer or contractor when placed upon construction sites and not exceeding sixty-four (64) square feet in area. Such signs shall not be erected prior to approval of a site plan and shall be removed not later than ten (10) days after completion of the project;
- (14) Signs identifying the name and profession of the occupant(s) of a business establishment and not exceeding two (2) square feet in area;
- (15) Memorial or commemorative plaques or tablets denoting a building name and/or date of erection or a location of historic significance and not exceeding four (4) square feet in area;
- (16) Any sign for informational (nonadvertisement) purposes not exceeding one (1) square foot in area with letters not exceeding four (4) inches in height;
- (17) Property identification signs indicating address and/or name and not exceeding two (2) square feet in area located on property used for residential purposes or five (5) square feet in area located on property used for business purposes;
- (18) Temporary business signs/banners shall be allowed, provided that:
  - (A) Temporary business signs/banners of combustible material shall not exceed sixty (60) square feet in area;
  - (B) Temporary business signs/banners weighing more than fifty (50) pounds must conform to the safety requirements of the building code of the city and must be approved by the city manager;

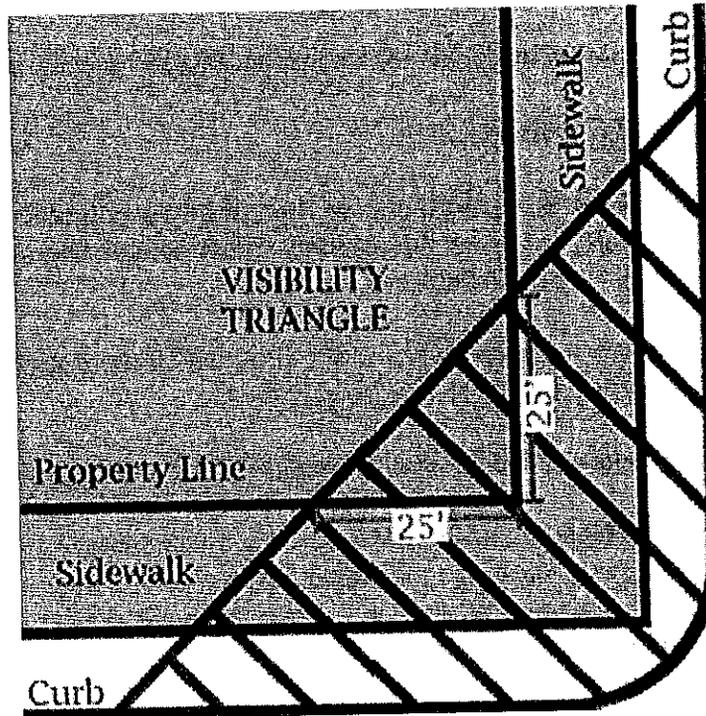
- (C) Temporary business signs/banners shall not extend over or into any street right-of-way, alley, sidewalk, or other public thoroughfare; and
  - (D) Temporary business signs/banners must be on-premises signs.
- (19) Amateur ballpark signs;
  - (20) Signs erected by the city, the state (including its political subdivisions, such as school districts), or the United States government, or otherwise required by federal, state, or local laws;
  - (21) Directory signs, menu boards and the like, which are designed to be read from a distance no greater than ten (10) feet;
  - (22) Religious emblems when installed in compliance with construction codes; and
  - (23) Notwithstanding any other provision of this chapter, any sign that may display a commercial message may also display any noncommercial message, either in place of or in addition to the commercial message, so long as the sign complies with the other requirements of this chapter.

**Sec. 11.302 Prohibited Signs**

Signs prohibited by this chapter include, but are not limited to, the following:

- (1) Signs that are inadequately maintained to show evidence of deterioration, including peeling, rust, dirt, fading, discoloration or holes. Damaged signs shall be repaired or removed within thirty (30) days of receipt of notice from the city;
- (2) Signs that advertise a business or product which is no longer in existence. Abandoned or outdated signs shall be replaced or removed within thirty (30) days of receipt of notice from the city;
- (3) Signs that are erected, relocated, or maintained to prevent free ingress to or egress from any door, window, or fire escape. No sign of any kind shall be attached to a standpipe or fire escape;
- (4) Signs that obstruct free and clear vision:
  - (A) No signs shall be erected, relocated or maintained which constitute a traffic hazard and such signs shall be deemed prohibited signs.
  - (B) No sign or part of a sign frame may be located between two feet and ten feet above the established ground level within the area of a clear sight triangle for traffic extending 25 feet in each direction from the point of a street intersection.

## Corner



- (5) Signs that interfere with, obstruct the view of, or may be confused with any authorized traffic sign, signal, or device because of its position, shape, or color;
- (6) Signs that use the words “stop,” “look,” “go slow,” “caution,” “danger,” “warning,” or any other word, phrase, symbol or character in a manner that interferes with, misleads, or confuses traffic;
- (7) Signs that constitute a hazard to safety or health by reason of inadequate design, construction, repair, or maintenance;
- (8) Signs that are illuminated with lights that cause a glare into or upon the surrounding area or any property used for residential purposes or that distract operators of vehicles or pedestrians on a public right-of-way;
- (9) Signs that contain reflectors, lights or illuminations that flash, move, rotate, scintillate, blink, flicker, vary in intensity or color, or use intermittent electrical pulsation. This subsection does not prohibit LED signs that otherwise comply with this subsection and do not change the display more often than once every 2 minutes;
- (10) Signs that display any matter in which the dominant theme of the material taken appeals to a prurient interest in sex, or is patently offensive because it affronts contemporary community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value;

- (11) Signs that are painted on or attached to a motor vehicle used primarily for the display of such sign. This chapter shall not prohibit the identification of a business or its products or services on a vehicle(s) operated and parked in a manner appropriate to the normal course of business;
- (12) Signs that have visible moving, revolving, or rotating parts or visible mechanical movement of any kind, achieved by electrical or mechanical means, except for time/temperature/date signs. A message board or electronically displayed date, time, and temperature may not occupy more than twenty-four (24) square feet of the area of sign face;
- (13) Signs attached to or located upon outdoor exposed amenities such as trees, street signs, utility poles that are visible from any street;
- (14) Signs that are off-premises signs;
- (15) Signs or portions thereof which are located on, or project or extend over, any public right-of-way, any public sidewalk, street, alley, or other public property unless erected by city staff;
- (16) Wind device signs that cause confusion or obstruction to traffic on adjacent public streets; and
- (17) Portable signs except when used as a temporary sign in accordance with Section 11.307.

**Sec. 11.303 Allowable Signs**

- (a) Business establishments shall be allowed signage in accordance with the provisions of this section. If, however, the business establishment is part of a shopping center or an integrated business development, the signage allowed shall be as provided in Section 11.304(1) hereof. One additional sign is allowed for each 600 feet of road frontage or 80,000 square feet of building area. A permit is required for the sign(s) allowed under this section.
- (b) An exterior sign must withstand the elements and shall be made of materials, such as native stone, brick, rough cedar, pine or other types of wood, metal. Signs made of wood, frame and pole(s) shall be painted.
  - (1) Pole Signs.
    - (A) Each business establishment is permitted one (1) pole sign not exceeding one hundred (100) square feet in area and not exceeding twenty (20) feet in height, including the supporting structure, above the surrounding finished grade level. The bottom of the sign shall not be less than five (5) feet above the surrounding finished grade level.

- (B) The pole sign may have a reader panel attached to it, however, a reader panel shall be included in the calculation of total sign area. The pole or support structure shall be visibly marked if the pole sign is in a parking area.
- (C) A pole sign shall be located such that all parts of such sign are a minimum of five (5) feet from all property lines.

(2) Monument Signs.

- (A) In lieu of and not in addition to a pole sign, each business establishment is permitted one (1) single or double-faced monument sign not exceeding eighty (80) square feet in area and not exceeding twelve (12) feet in height above the surrounding finished grade level;
- (B) The location of a monument sign is subject to approval by the city manager to ensure that the location does not cause an obstruction to the view of traffic or create a hazard to traffic or pedestrians; provided, however, all monument signs shall be located not less than five (5) feet from all property lines; and
- (C) Provided further, monument signs shall be located not less than twenty-five (25) feet from the edge of the property line on the corner of an intersection of two (2) streets and must comply with Section 11.302(4) of this article.

(3) Wall Signs.

- (A) In addition to a pole sign or monument sign, each business establishment is permitted one (1) wall sign per exterior wall, not exceeding in total square feet twenty (20) percent of the facade to which it is affixed. Business establishments located in "strip centers" may place one wall sign that does not exceed the average square feet of other existing wall signs within the same strip center.
  - (B) A wall sign may not project above the roofline of a building, except for buildings with parapet walls. A wall sign on a parapet wall shall not project above the parapet, except vertical wall signs perpendicular to a parapet wall which have a height of at least three (3) times its width may project above the parapet up to one-third (1/3) of its height, not to exceed (10) feet.
- (4) Wind Device Signs. Wind device signs such as but not limited to sky dancers, bow flags, wind flags, roof toppers, wind sails, helium blimps:

- (A) No more than two wind device signs are allowed at a location for each business establishment.
- (B) Wind device signs are allowed for a maximum of 30 days per calendar year.
- (C) Wind device signs that are torn or faded must be removed.

**Sec. 11.304 Additional Signs Allowed—Shopping Centers and Integrated Business Development**

Shopping centers and integrated business developments shall be allowed signage in accordance with the provisions of this section. A permit is required for the sign(s) allowed under this section.

- (1) Each shopping center or integrated business development is permitted one (1) pole sign not exceeding one hundred fifty (150) square feet in area plus an additional twenty (20) square feet in area for each business establishment located in the shopping center or integrated business development. The pole sign shall not exceed twenty-five (25) feet in height, including the supporting structure, above the surrounding finished grade level. The bottom of the sign shall not be less than five (5) feet above the surrounding finished grade level. The pole sign may have a reader panel attached to it, however, a reader panel shall be included in the calculation of total sign area. The pole or support structure shall be visibly marked if the pole sign is in a parking area.
- (2) A pole sign shall be located such that all parts of such sign are a minimum of ten (10) feet from all property lines.
- (3) In lieu of a pole sign, a shopping center or integrated business development is permitted one (1) single or double-faced monument sign not exceeding sixty (60) square feet in area plus an additional five (5) square feet in area for each business establishment located in the shopping center or integrated business development and not exceeding twelve (12) feet in height above the surrounding finished grade level.
- (4) The location of a monument sign is subject to the approval of the city manager to ensure that the location does not create hazards to traffic or pedestrians, provided, however, all monument signs shall be located not less five (5) feet from all property lines and, provided further, monument signs shall be located not less than forty-five (45) feet from the corner of an intersection of two (2) streets.
- (5) In addition to a pole sign or monument sign as permitted herein, each business establishment located in a shopping center or integrated business development is permitted one (1) wall sign in accordance with Section 11.303(b)(3).

**Sec. 11.305 Development Identification Signs**

- (a) Single-family residential subdivisions are allowed permanent monument signs at each major entrance to the subdivision. The total sign surface area at each entrance shall not exceed sixty-four (64) square feet in area and shall not exceed eight (8) feet in height above the surrounding finished grade level. The location of the monument sign is subject to approval of the city manager to ensure that the location does not create hazards to traffic or pedestrians. Subdivisions which consist of more than one (1) platted section are allowed an additional monument sign of not more than twenty-four (24) square feet in area and not exceeding six (6) feet in height for each major entrance to each section therein; however, in the case where the major entrance to the subdivision is also a major entrance to a section of the subdivision, that entrance shall be limited to a monument sign of not more than thirty-two (32) square feet.
- (b) A townhouse, condominium, or apartment complex is permitted one (1) single or double-faced monument sign on the premises, not exceeding sixty-four (64) square feet in area and not exceeding eight (8) feet in height above the surrounding finished grade level. The location of the monument sign is subject to the approval of the city manager to ensure that the location does not create hazards to traffic or pedestrians; provided, however, all monument signs shall be not less than five (5) feet from all property lines and, provided further, monument signs shall be located not less than forty-five (45) feet from the corner of an intersection of two (2) streets. In addition to a monument sign, each multifamily dwelling complex is permitted one (1) wall sign not exceeding in total square feet fifteen (15) percent of the facade to which it is affixed. A wall sign may not project above the roofline of a building, except for buildings with parapet walls, in which case the signage shall be flush with the wall and shall not project above the parapet.
- (c) A permit is required for the sign(s) allowed under this section.

#### **Sec. 11.306 Not-for-Profit Entities or Private School Signs**

A not-for-profit entity or private school shall be allowed to erect one (1) single or double-faced monument sign on the property on which the not-for-profit entity or school is located. The sign shall not exceed sixty-four (64) square feet in area and shall not exceed eight (8) feet in height above the surrounding finished grade level. One (1) additional single or double-faced monument sign can identify a secondary use (such as a school) on the same property. The additional sign shall not exceed thirty-two (32) square feet in area and shall not exceed eight (8) feet in height above the surrounding finished grade level. A permit is required for the sign(s) allowed under this section.

#### **Sec. 11.307 Portable Signs**

- (a) An on-premises portable sign shall be permitted only as a temporary sign for use by business establishment or not-for-profit entity for the initial opening of such business entity for a period not exceeding thirty (30) days. An on-premises portable sign may be permitted for temporary use by a business establishment or not-for-profit entity maximum period of thirty (30) days per calendar year.

- (b) Portable signs may be used on a temporary basis by governmental agencies for notification to the public of special events and public information.
- (c) A permit is required for any portable sign(s) allowed under subsection (a) of this section. The location of a portable sign allowed under this section must be approved by the city manager to ensure that the location does not create hazards to traffic or pedestrians.
- (d) The maximum area per side of a portable sign shall not exceed thirty-two (32) square feet.
- (e) Portable signs shall be securely anchored and constructed and erected in accordance with the city's building code and electrical code.
- (f) Portable signs shall be located not less than five (5) feet from all property lines and not less than forty-five (45) feet from the corner of and intersection of two (2) streets.

**ARTICLE 11.400 COMPLIANCE AND ENFORCEMENT**

**Sec. 11.401 Nonconforming Signs**

A permanent sign erected within the city prior to the effective date of this chapter, which does not conform to the regulations of this chapter, shall be deemed to be a nonconforming sign which shall be allowed to continue, with normal maintenance and repair only; provided, however, a nonconforming sign may not be enlarged upon, expanded, or extended, except as otherwise provided herein. It is not the intent of this section to encourage the survival of nonconforming signs; to the contrary, nonconforming signs are discouraged and contrary to the intent and purpose of this chapter.

- (1) A nonconforming sign shall not be enlarged, expanded, extended, replaced, or rebuilt in case of obsolescence or destruction by any means or cause.
- (2) In the event a nonconforming sign is damaged by any means or cause and the repair or reconstruction cost, whichever is applicable, equals or exceeds fifty (50) percent of the fair market value of the sign at the time of the damage, it must be removed or brought into compliance with this chapter.
- (3) In case any nonconforming sign is enlarged, expanded, extended, replaced, or rebuilt in violation of any of the terms of this chapter, the city manager shall give written notice by personal service or by certified mail, return receipt requested, to the owner, lessee, or person responsible for said sign, to remove the sign or bring the sign into compliance with this chapter. If such order is not complied with within ten (10) days, the city manager shall revoke the sign permit.
- (4) All signs shall be placed by the owner or the party in control of the property or with the permission of such owner or party in control, and the owner or party in

control shall be responsible for the prompt removal of any sign in accordance with the provisions of this chapter.

- (5) Signs identified and described in Section 11.302(2), (3), (4), (5), (6), (7), (10), (11), (13), (15), and (16) shall be removed within thirty (30) days after the effective date of this section.
- (6) Nonconforming temporary business banners and portable signs shall be removed or made to conform to the provisions of this chapter within thirty (30) days after the effective date of this section.
- (7) Additions and enlargements to a nonconforming monument sign in a shopping center or integrated business development are permitted provided such addition or enlargement:
  - (A) Does not include replacement of the existing sign structure;
  - (B) Does not increase the height or width of the sign; and
  - (C) Does not cause the total area of all signs in the shopping center or integrated business development to exceed the total allowable square foot area.

#### **Sec. 11.402 Periodic Inspection**

The city manager shall inspect periodically or whenever deemed necessary, each sign or other advertising structure regulated by this chapter for ascertaining whether the sign structure is unsafe, in need of repair, not in conformance with the permit application, or otherwise in violation of the provisions of this chapter.

#### **Sec. 11.403 Appeals**

Any person wishing to appeal a decision of the city manager on the grounds that the decision misconstrues or wrongly interprets this chapter may, within thirty (30) days after such decision, appeal the same to the city council, pursuant to the rules and regulations adopted from time to time by the city council; provided, however, the appealing party shall give notice of the appeal in writing to the city secretary within said thirty (30) days following the decision appealed from and, provided further, the appealing party shall comply with the city manager's decision pending appeal, unless the city manager shall direct otherwise.

#### **Sec. 11.404 Penal Provision**

Any person violating any provision of this chapter or failing to comply with any requirement of this chapter, shall be guilty of a misdemeanor and punishable. Each day during or upon which such person shall violate or continue violation of any provision of this chapter or noncompliance with any requirement of this chapter shall constitute a distinct and separate offense.

# APPENDIX A FEE SCHEDULE

## BUILDING RELATED FEES

### Building Permit Fees - \$30.00 Permit Issuance Fee

(a) Building Permits

Total Valuation	Fees
\$1,000.00 and less	\$40.00
\$1,001.00–\$50,000.00	\$145.00 for the first \$1,000 plus \$4.00 for each additional thousand or fraction thereof, up to and including \$50,000.00.
\$50,001.00–\$100,000.00	\$355.00 for the first \$50,000.00 plus \$4.00 for each additional thousand or fraction thereof, up to and including \$100,000.00.
\$100,001.00– \$1,000,000.00	\$575.00 for the first \$100,000.00 plus \$4.00 for each additional thousand or fraction thereof, up to and including \$1,000,000.00.
\$1,000,001.00 and up	\$2,613.00 for the first \$1,000,000.00 plus \$3.00 for each additional thousand or fraction thereof.

(b) Reinspection \$50.00.

(c) Plan Review: 1/2 of building permit fee.

(d) Certificate of Occupancy \$50.00.

(1) Temporary certificate of occupancy \$50.00.

(2) General service inspection to an existing building or premises when there is a change in occupants or a change of occupancy as a reinspection of occupancy \$50.00.

(e) Sign Permits.

Total Valuation	Fees
\$1,000.00 and less	\$50.00
\$1,001.00 and above	\$50.00 for the first thousand plus \$2.00 for each additional thousand

- (f) Demolish Permit: \$50.00.
- (g) Placement Permit. For the placement of any primary building or accessory structure placed on property within the city, the fee shall be determined using subsection (a) "building permits."
- (h) Moving Permit. For moving of any building or structure \$100.00.
- (i) Fence Permit: \$25.00.



