

CHAPTER 4

BUSINESS REGULATIONS

ARTICLE 4.100 AMBULANCES*⁽¹⁾

Sec. 4.101 Definitions

As used herein the following words and phrases shall have the meanings indicated:

Ambulance. Every motor vehicle used, designed or redesigned for the transportation of sick or injured persons.

Ambulance Drivers. Any person who shall operate an ambulance on the streets of the City of Brownfield, Texas.

Ambulance Operator. Any person, partnership, joint venture, or corporation or association of persons holding a permit from the City of Brownfield to operate an ambulance.

Driver's Permit. A City of Brownfield ambulance driver's permit.

(1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-1)

Sec. 4.102 Penalty for Violation of Article

A person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction shall be fined in accordance with the general penalty provision set forth in Section 1.109 of this code. Each day's violation shall constitute a separate offense. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-2)

Sec. 4.103 Compliance With Chapter Required; Ambulance Operator's Permit

It shall be unlawful and contrary to the terms of this article for any person, partnership, joint venture, corporation or association of persons to engage in the furnishing of ambulance service within the city limits of the City of Brownfield, Texas, or on the public streets thereof without having first complied with all the terms and provisions of this article and having obtained a

permit to operate such ambulance on the streets of the City of Brownfield, Texas. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-3)

Sec. 4.104 Procedures for Obtaining a Permit to Operate Ambulance

(a) Application for an ambulance operator's permit shall be filed with the secretary of the City of Brownfield, Texas, and such application shall be in a form acceptable to the city secretary and shall contain proof of the following matters. Such application shall be sworn to before a notary public or other officer authorized to take oaths.

- (1) The applicant or applicants have not been convicted of a felony or of a misdemeanor involving moral turpitude within ten (10) years from the date of filing such application.
- (2) A certificate of insurance must be furnished to show that the applicant has obtained or will obtain liability insurance in accordance with the requirements hereinafter provided before commencing ambulance service in the event the city council determines an ambulance emergency operator's permit should be granted to such applicant. No ambulance operator's permit shall be issued until such insurance is in effect and until satisfactory proof of such fact is made to the city secretary.
- (3) A statement that the applicant has been issued a permit by the state board of health pursuant to the terms and provisions of Article 4590b of the Texas Civil Statutes. No ambulance permit will be issued unless the applicant has obtained such a permit.

(b) Upon receipt of the application in due form and containing all information required by this article, the city secretary shall cause a notice to be published in the city's newspaper one time at least ten (10) days and not more than fifteen (15) days prior to the next regular meeting of the Brownfield City Council and such notice shall state that the application has been received by the city secretary. In addition to the public notice set forth above, the city secretary shall notify in writing each holder of a current ambulance operator's permit of the receipt of such application and such notice shall indicate that a public hearing will be had at the next regular council meeting, giving the date of such meeting. The applicant shall pay to the city secretary upon the filing of his application the cost of publication of such notice as is required by this article.

(c) Provided that any person operating an ambulance service within the City of Brownfield shall be issued a permit without notice and hearing upon such person making application within ten (10) days after the effective date of this article and upon such persons furnishing the certificate of insurance as herein provided.

(1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-4)

Sec. 4.105 Determination of Public Convenience and Necessity

(a) Hearing. The city council of the City of Brownfield, Texas, shall hold a public hearing at the time and place specified in the published notice.

(b) City Council's Findings. The applicant shall not be granted an ambulance operator's permit unless the city council finds and determines that the public convenience and necessity will be served by the issuance of such permit. The city council shall hear all of the relevant and material evidence presented by applicant and his witnesses and by persons who appear in opposition to the application. The council shall also have the right to call any other witnesses that it may deem necessary or appropriate. In all such hearings the burden of proof shall be upon the applicant to establish by clear, cogent and convincing evidence that the public convenience and necessity will be served by the granting of the ambulance operators permit.

(c) Public Convenience and Necessity Shall Mean That:

- (1) the existing ambulance service within the City of Brownfield will not be adversely affected so as to lower the standards of existing services within the city;
- (2) there is a need for additional ambulance service within the City of Brownfield, Texas;
- (3) existing ambulance service is inadequate to serve the needs of the public, whether such inadequacy is caused by the lack of equipment, the lack of competent personnel, mismanagement, or any other cause whatsoever;
- (4) the financial responsibility of the applicant to furnish the service for which he has made application.

(d) Granting or Denying Permit. The city council shall make determinations as to the existence or non-existence of public convenience and necessity within fifteen (15) days of the date of the conclusion of such hearing and it shall notify the applicant and all other parties who appeared at such hearing as a party at interest of the decision of the city council. Unless such application is granted within fifteen (15) days of the conclusion of the public hearing, it will be deemed to have been denied.

(e) Duration of Permit. An ambulance operator's permit issued pursuant to this article shall remain valid so long as all terms and provisions of this article are complied with and so long as ambulance service is provided by the holder of such permit. Should he cease furnishing adequate ambulance service, should he permit or suffer his liability insurance to lapse, such permit shall be automatically forfeited and cancelled and may be reinstated only upon submission of a new

application.

(1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-5)

Sec. 4.106 Public Liability Insurance Requirements

(a) Before an ambulance operator's permit is granted to an applicant, or before any renewal thereof, the applicant or the operator seeking renewal shall provide evidence to the city secretary that he has in full force and effect a public liability and property damage insurance policy on each ambulance, such insurance policy to be issued by an insurance company licensed to do business in the State of Texas. Such insurance policy or policies shall provide liability insurance in the amount of not less than \$300,000.00 for any one accident and not less than \$100,000.00 for injury to any one person and not less than \$25,000.00 for property damage. Such insurance policy shall not contain a passenger liability exclusion.

(b) Evidence of such insurance shall be in the form of a certificate of insurance stating fully the nature and extent of coverage provided, and such certificate shall contain a provision to the effect written notice will be given to the city secretary at least ten (10) days prior to the effective date of any cancellation of such insurance policy or policies.

(c) Failure of operator to maintain at all times a currently effective certificate of insurance shall be grounds for the cancellation of his permit.

(1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-6)

Sec. 4.107 Record Maintenance

(a) All persons, firms or corporations holding an ambulance operator's permit shall keep a record of all ambulance calls made, the type service rendered, date, time, place picked up and where taken.

(b) The books and records of the holder of any ambulance operator's permit shall be open for inspection by the city manager of the City of Brownfield or personnel under his direction.

(1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-7)

Sec. 4.108 Condition of Ambulances and Supplies Required

The city manager may from time to time with the advice of the city health officer make a list of supplies to be carried at all times in any ambulance, and notification shall be given to the operators of all such vehicles as to such requirements. The failure of any permit holder to comply

with the requirements so established after adequate notification given in writing of such requirements shall be grounds for the suspension or revocation of this permit. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-8)

Sec. 4.109 Service Requirements

It shall be unlawful for an ambulance operator to refuse to carry or transport any sick or injured person at the place of an emergency on account of the apparent indigence of such person or the inability of such person to pay for emergency ambulance service. The operator shall not be required to furnish ambulance service of a non-emergency nature unless the recipient of such service shall make satisfactory financial arrangements with such operator. The contractor will provide prompt and efficient twenty-four (24) hour ambulance and transfer service to the citizens of Brownfield and Terry, County, Texas. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-9)

Sec. 4.110 Change in Ownership to be Reported

All changes in the organization or ownership of any partnership or corporation shall be promptly reported to the city secretary within ten (10) days after such change occurs, and any individual becoming connected with the operation of such ambulance shall file his individual application with the city secretary certifying to the qualifications set forth in Section 4.104. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-10)

Sec. 4.111 Regulation of Rates Charged

The city council of the City of Brownfield shall upon the passage of this article set up a rate of charges to be made by the ambulance operators for various services rendered. The city council may from time to time make changes in the rates as in their opinion should be made. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-11)

Sec. 4.112 Driver's Permit Requirement and Procedure

(a) It shall be unlawful for any person to drive or operate an ambulance unless such person has obtained from the City of Brownfield an ambulance driver's permit. In order to be eligible for such permit, such person must make application to the chief of police of the City of Brownfield which such application shall contain the following information:

- (1) That the applicant is twenty-one (21) years of age or older.
- (2) That the applicant has not been convicted of a felony or of a misdemeanor involving moral turpitude within the last ten (10) years.

(3) The applicant is a holder of a Texas Chauffeur's License.

(4) That such application be sworn to before a notary public.

(b) Upon the receipt of such application, the chief of police shall cause an investigation to be made of the driving record of such applicant, and if such driving record appears satisfactory, and if all other provisions of this article have been complied with, the chief of police may issue such ambulance driver's permit. The chief of police may refuse to issue such permit for good cause.

(1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-12)

Sec. 4.113 Suspension of Driver's Permits

The city may, after notice and hearing, suspend or revoke permit issued to any driver under this article if such driver has violated the terms of this article or any other ordinance or law regulating traffic in the City of Brownfield, Texas. All ambulances operating in the City of Brownfield shall be operated according to the ordinances regulating traffic. Ambulance drivers shall obey traffic regulations and the posted speed limits at all times. (1965 Code of Ordinances, Chapter 2 1/2, Section 2 1/2-13)

ARTICLE 4.200 FAIR HOUSING*(2)

Sec. 4.201 Definitions

For the purpose of this article the following terms, phrases, words and their derivations shall have the meaning 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 Section 4.202 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 thereon of any such building, structure or portion thereof.

Family. Includes a single individual.

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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.

(1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-21)

Sec. 4.202 Prohibited Acts in the Sale or Rental of Housing

Except as exempted by Section 4.205, 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 any 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 particular 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 so as to promote the maintenance of racially segregated housing or so as to retard, obstruct, or discourage racially integrated housing.

(1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-22)

Sec. 4.203 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 therefore for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling; or to discriminate against any such person in the fixing of the amount, interest rate, brokerage points, duration, or other terms or conditions of such loan or their financial assistance because of:

- (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.

(1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-23)

Sec. 4.204 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 on account of race, color, sex, religion or national origin. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-24)

Sec. 4.205 Exemptions and Exclusions

(a) There shall be exempted from the application of Section 4.202 hereof all transactions involving:

- (1) The rental of units in dwellings containing living quarters occupied or intended to be occupied by no more than four (4) families living independently of each other if the owner actually maintains and occupies one of such units as his residence;
- (2) The rental of a single room in a dwelling containing living quarters occupied or intended to be occupied by no more than one family if the person offering such room for rental actually maintains and occupies the remainder of such dwelling as his

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residence and not more than four (4) 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 4.202(3) of this article (this shall not prohibit the use of attorneys, escrow agents, abstractors, title companies and other such professional assistance as necessary to perfect or transfer the title); and
 - (C) The owner does not own more than three (3) single-family houses at the time of the sale; and
 - (D) The owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any right to all or any portion of the proceeds from the sale or rental or more than three (3) such single-family houses at any one time.

If the owner does not reside in the house at the time of sale or was not the most recent resident of such house prior to the sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period.

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

(c) Nothing in this article shall prohibit a bona fide club, not in fact open to the public, which as an incident to its primary purpose, provides lodging which it owns or operates for other than a commercial purpose from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

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

(1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-25)

Sec. 4.206 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. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-26)

Sec. 4.207 Filing of 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 U.S. 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 subsection (a) above.

(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.

(1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-27)

Sec. 4.208 Investigation of Complaints; Conciliation; Prosecution

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

(b) During or after the investigation, but subsequent to the mailing of the notice of complaint, the administrator shall if it appears that a discriminatory housing practice has occurred or is threatening to occur, attempt by informal endeavors to effect conciliation, including voluntary discontinuance of the discriminatory housing practice and adequate assurance of future voluntary compliance with the provisions of this article. Nothing said or done in the course of such informal endeavors may be made public by the administrator, by the complaint or by any other party to the proceedings without the written consent of all persons concerned.

(c) Upon completion of the investigation and informal endeavors at conciliation by the administrator, but within thirty (30) days of the filing of the complaint with the administrator, if the 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 violations be prosecuted in the municipal court. With such recommendations the administrator shall refer his entire file to the city attorney. The city attorney shall within thirty (30) days after such referral make a determination as to whether to proceed with prosecution of such complaint in municipal court. If the city attorney determines to prosecute, he shall institute a complaint and prosecute same to conclusion within thirty (30) days after such determination or as soon thereafter as practicable.

(1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-28)

Sec. 4.209 Cumulative Legal Effect

This article is cumulative in its legal effect and is not in lieu of any and all other legal remedies, which the person aggrieved may pursue. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-29)

Sec. 4.210 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. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-30)

Sec. 4.211 Cooperation With U.S. Secretary of Housing and Urban Development

The administrator and the city attorney are authorized to cooperate with the U.S. Secretary of Housing and Urban Development and the U. S. Attorney General pursuant to the provisions of Title VII, 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. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-31)

Sec. 4.212 Education and Public Information

In order to further the objectives of this article, the administrator may conduct educational and public information programs. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-32)

Sec. 4.213 Penalty for Violation

Any person, firm, or corporation violating any provision of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in accordance with the general penalty provision set forth in Section 1.109 of this code. (1965 Code of Ordinances, Chapter 4 1/2, Article II, Section 4 1/2-33)

ARTICLE 4.300 OIL AND GAS WELLS^{*(3)}

Sec. 4.301 Title

The title of this article and the name by which it shall be known is the "City of Brownfield Oil and Gas Well Article." (1965 Code of Ordinances, Chapter 13, Section 13-1)

Sec. 4.302 Definitions

For the purpose of this article the following words and terms wherever and whenever used or appearing herein shall have the scope and meaning hereafter defined and set out in connection

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with each:

Well. Any hole or holes, bore or bores to any sand, formation, strata or depth for the purpose of producing any oil, gas or liquid hydrocarbon or any of them.

Permittee. The person to whom is issued a permit for the drilling, completion and operation of a well and/or the construction, installation and operation of any pipeline facility under this article, and his heirs, legal representatives, successors and assigns.

Technical Words. All technical or oil and gas industry words or phrases used herein and not specifically defined shall have that meaning customarily attributable thereto by prudent operators in the oil and gas industry.

Lease. Any tract of land subject to an oil, gas and mineral lease or other oil and gas development contract, or any unit composed of several tracts and leases but operated as one lease, and any tract of land in which the minerals are owned by an operator or someone holding under it of him, but which, due to the fee royalty ownership is developed and operated as a separate tract, but it shall not mean any tract of land heretofore or hereafter conveyed or used for pipeline right-of-way purposes.

Street. Any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way.

Curb Line. The line established by the City of Brownfield for the particular street.

Right-of-Way. The phrase "right-of-way" is expressly limited to all public rights-of-way or streets or other public property within the City of Brownfield.

Person. One or more individuals, firms, companies or corporations.

Trunkline Pipeline. Common carrier pipelines and other main pipelines not included in the definition of gathering lines, expressly including their rights-of-way as defined and established by instruments of record in the office of the County Clerk of Terry County, Texas; the phrase "gathering lines" as used herein shall mean all pipelines operated as an incident to the development and operation of oil and/or gas fields and secondary recovery projects; and the word "pipelines" whenever and wherever used herein but not as a part of the preceding phrase shall mean trunkline pipelines and gathering lines as hereinabove defined.

Titles. When the title of any city official is used herein, such shall include any duly authorized representative.

(1965 Code of Ordinances, Chapter 13, Section 13-2)

Sec. 4.303 Oil and Gas Inspector

(a) Creation of Office. The office of oil and gas inspector in and for the city is hereby created.

(b) Appointment. The oil and gas inspector shall be appointed by the city manager with the approval of the city council, and said inspector may or may not have other duties as designated by the city council.

(c) Duty. It shall be the duty of the oil and gas inspector to enforce the provisions of this article.

(d) Appeal from Rulings, Orders, Decisions of Oil and Gas Inspector. Any person who may be aggrieved by any ruling, order and/or decision of the oil and gas inspector shall have the right of appeal to the city council from such ruling, order and/or decision, provided however, that any such appeal must be taken, if at all, within ten (10) days immediately following the filing of such rule, order and/or decision in the records of the office of the oil and gas inspector.

(1965 Code of Ordinances, Chapter 13, Section 13-3)

Sec. 4.304 Permits

(a) When Permits Required. It shall be unlawful and an offense for any person acting either for himself or acting as agent, employee, independent contractor or servant for any other person to drill or commence to drill any well or to install any trunkline or pipeline facility within the city limits of the city without a permit having first been issued by the authority of the city council in accordance with the terms of this article, and it shall be illegal and unlawful for any person acting either for himself or acting as agent, employee, independent contractor or servant for any other person to inject water, gas or other substances for repressuring or waterflood purposes within or under the city limits of the city.

(b) Extent and Kind of Work Authorized by Permit to Drill Well. When a permit has been issued for the drilling of a well, such permit shall constitute sufficient authority for drilling, operation, production, gathering of production, maintenance, repair, reworking, testing, plugging and abandonment of the well, and for the construction and use of all facilities reasonably necessary or convenient in connection therewith, including gathering lines and discharge lines, by the permittee and its employees, agents and contractors provided that such activities are not in conflict with any of the conditions and provisions contained in such permit. However, a new or supplemental permit shall be obtained before such well may be deepened below the geological formation in which it was originally completed and no well may be used for repressurizing or

injection (except during fracture operations) of water, gas or other substances within or under the city limits of the city.

(c) Extent and Kind of Work Authorized by Permit to Install Trunkline or Pipeline. When a permit has been issued for the installation of any trunkline or pipeline, such permit shall constitute authority for the construction, operation and maintenance of such well but shall not constitute authority for the conversion of such wells for injection of water or gas for waterflood or repressuring purposes. Such permit however, shall constitute authority for repair and abandonment of such facility, and for all facilities reasonably necessary or convenient in connection therewith (including gathering lines), by permittee and its employees, agents and contractors provided that such authorized activities are in compliance with all of the provisions of this article and provided that such activities are not in conflict with any of the conditions and provisions contained in such permit.

(d) Separate Permits Required for Each Well or Each Trunkline or Pipeline. No one permit shall authorize the drilling of more than one well or the installation of more than one trunkline or pipeline.

(1965 Code of Ordinances, Chapter 13, Section 13-4)

Sec. 4.305 Permit Applications

(a) Written Application Required; Filing Fee. Every application for a permit to drill a well, trunkline or pipeline shall be in writing, signed by the applicant or by some person duly authorized to sign on his behalf and it shall be filed with the city secretary. In case the permit is requested for the purpose of drilling a well or re-entering and drilling to a deeper formation, the application shall be accompanied by a filing fee as set forth in the fee schedule in the appendix of this code, and said filing fee shall be paid by cashier's check or certified check made payable to the City of Brownfield.

(b) Separate Applications; Information Required. A separate application shall be required for each well, trunkline or pipeline. The application shall include full information including the following:

- (1) The date of the application;
- (2) Name of the applicant;
- (3) Address of the applicant;
- (4) Proposed site of the well (including proposed location of gathering lines or trunklines

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or pipelines) including the following:

- (A) Name of the lease owner (where applicable);
 - (B) Accurate description of the land and a detailed plat of all equipment and facility installations;
 - (C) Location with respect to property lines, right-of-way boundaries and grades (where applicable);
- (5) Type of derrick (if any) to be used;
 - (6) The proposed depth of the well;
 - (7) Detailed explanation of operating pressures of all pipelines and facilities;
 - (8) Location of compressor, pressure control or safety devices with explanation of operating characteristics of each;
 - (9) The name of the person or persons to be notified in case of emergency;
 - (10) The application to install any pipeline with pressures in excess of two hundred fifty (250) pounds per square inch should include details and specifications of the safety provisions and equipment;
 - (11) If applicant is a corporation, the application shall contain the name of its registered agent.

(1965 Code of Ordinances, Chapter 13, Section 13-5)

Sec. 4.306 Issuance and Denial of Permits

(a) Fixing of Bond and Insurance; Contents of Permit. The city council within sixty (60) days after the filing of the application for a permit to drill a well or install a trunkline or pipeline or any primary system for the production of oil, gas and condensate shall determine whether or not the application complies in all respects with the provisions of this article; and if it does so comply, the city council shall fix the amount of the principal of the bond and insurance provided for herein, and shall issue a permit for the drilling of the well or the installation of the facilities for which application has been made. Each permit shall:

- (1) By reference have incorporated therein all the provisions of this article with the same

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force and affect as if this article were copied verbatim in such permit;

- (2) Specify the location of the proposed well and all pipelines with particularity to lot number, block number, name of addition or subarticle, section line or other available correct legal description;
- (3) Contain and specify that the term of the permit shall be for a period of one year from the date of the permit and until such time as the permittee has permanently abandoned the operation of such well or facility for which the permit was issued;
- (4) Contain and specify such other terms and provisions as may be necessary in a particular case to accomplish the purposes of this article;
- (5) Specify the total depth to which the well (if any) may be drilled, not exceeding the proposed depth;
- (6) Contain and specify that no actual operation shall be commenced until the permittee shall file and have approved an indemnity bond in the designated principal amount as so determined by the city council or has complied with Section 4.311 herein.

(b) Factors Considered. In determining whether to grant or deny any application for a permit required by this article and in determining the conditions and provisions to be contained in any such permit, the city council shall include in its consideration the following factors:

- (1) Whether the proposed facility will comply with all provisions of this article;
- (2) Whether the proposed facility will conflict with the comprehensive plan for physical development of the city;
- (3) Whether specific sites have been designated on plats of the property in the area concerned for such oil and gas facilities as are the subject of the application;
- (4) Whether for any reason, the proposed facility will constitute a hazard to property or persons.

In acting on any such application, the city council shall determine whether the application complies with or is consistent with the above listed criteria as of the time of the granting or denying of the permit and not as of the time of the making of the application for such permit.

(c) Signing of Permit. Such permit in duplicate originals, shall be signed by the oil and gas inspector and prior to delivery to the permittee, shall be signed by the permittee (with one

original to be retained by the city and one by the permittee) and when so signed said permit shall constitute the permittee's drilling and installation license, as well as the contractual obligation of the permittee to comply with the terms of such permit, bond and of this article. The issuance of a permit pursuant to the provisions of this article constitutes a contract between the city and the permittee in that the permittee shall be liable and must pay the reasonable attorney's fees and costs incurred by the city in a successful enforcement of the provisions of this article.

(d) Changes in Conditions Subsequent to Granting of Permit. Once a permit has been granted by the city council, any subsequent change of conditions not under the control of the permittee shall not require any action on the part of the permittee to improve or change his existing facilities if such existing facilities complied with the provisions of the article before the said change of conditions. However, the preceding sentence does not apply to facilities which are actually abandoned or relocated for whatever reason, in which case such relocated facilities must comply with all provisions of this article.

(1965 Code of Ordinances, Chapter 13, Section 13-6)

Sec. 4.307 Suspension or Cancellation of Permit

In the event of the failure of the permittee to comply with any provision of this article, the oil and gas inspector shall issue a written notice to the permittee of the nature of the noncompliance and stating such reasonable time necessary to gain compliance. After lapse of such reasonable time, the city council may suspend the permit for a period of time or cancel the permit. (1965 Code of Ordinances, Chapter 13, Section 13-7)

Sec. 4.308 Supplemental Permit for Deep Drilling

(a) Application. Once any well has either been completed as a producer or abandoned as a dry hole, it shall be unlawful and an offense for any person to drill such well to a deeper geological formation than that reached in the prior drilling operations without the permittee as to such well obtaining a supplemental permit after filing a supplemental application with the city secretary specifying:

- (1) The condition of the well and the casing therein;
- (2) The depth to which it is proposed such well be deepened;
- (3) The proposed casing program to be used in connection with proposed deepening operations.

(b) Filing Fee. In the event the oil and gas inspector is satisfied that such well may be

deepened with the same degree of safety as existing in the original well, a supplemental permit may be issued without additional filing fee to the permittee authorizing the deepening and operation of the well to such specified depth as applied for, provided the derrick and drilling equipment have not been removed from the drill site. In any deeper drilling or any deeper completion of any deeper production operations, the permittee shall comply with all provisions contained in this article and applicable to the drilling, completion and operations of a well or wells. If the operator has removed the derrick and drilling equipment from the location, the supplemental permit shall comply with the requirements specified for a permit in Section 4.305 of this article.

(1965 Code of Ordinances, Chapter 13, Section 13-8)

Sec. 4.309 Permit Required for Conduits on Streets and Alleys

(a) Written Permission Required. No permittee shall make any excavation for any purpose or construct any lines for conveyance of fuel, water or minerals on, under or through the streets and alleys of the city without express permission of the oil and gas inspector in writing, and then only in strict compliance with the ordinances of the city; provided however, that emergency repairs may be made without such permission when in the good faith opinion of the permittee the delay required to obtain written permission would involve a hazard to person or to property, but permittee shall notify the city as soon as possible thereafter.

(b) Maximum Gauge Pressure in Gathering Lines and Flow Lines; Location of Lines to be Approved. The gathering lines and flow lines hereinafter installed in the corporate limits of the city, for the purpose of transporting oil, gas and/or water in conjunction with the operation of any well, tank or tank battery or injection or gathering system are hereby limited to a maximum operating gauge pressure of two hundred fifty (250) pounds per square inch unless otherwise specifically approved by the oil and gas inspector. The location of any such gathering lines and flow lines if not specified in the permit, must be specifically approved by the oil and gas inspector.

(c) Testing of Pipeline. The pipeline shall be tested prior to being placed in service to one hundred fifty (150) percent of expected operating pressure, but not less than one hundred (100) pounds per square inch.

(d) Plot Plans Showing Location of Pipelines Required. The companies responsible for any and all pipelines now in existence or hereinafter installed within the city limits are hereby required to furnish the city with an "as built" plot plan showing the location of all their facilities for permanent record with the city.

(e) Cover or Backfill. All pipelines within the city limits other than the utility lines of the city

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and the franchised distribution system of electric light and power companies, designed or utilized to transport oil, gas or water in connection with the production and transportation of oil and/or gas shall hereafter be installed with the minimum of cover or backfill specified by the then applicable ANSI Code for such pipelines. The oil and gas inspector is authorized to approve a lesser cover or specify a greater cover or backfill in special cases when in the opinion of the oil and gas inspector such variation is advisable and/or will not increase the degree of hazard.

(f) Construction in Right-of-Way to Conform to City Ordinances. The requirements for construction in public right-of-way must conform to such ordinances of the city regulating such construction.

(g) Written Permission Required to Dig up, Obstruct, Etc., Streets. The digging up, breaking, excavating, tunneling, undermining, breaking up or damaging of any street as herein defined, or the leaving upon any street of any earth or other material or obstruction shall not be permitted unless such person shall first have obtained written permission from the city manager; provided however, emergency repairs may be made without such permission when in the good faith opinion of the permittee the delay required to obtain such written permission would involve a hazard to person or property, but permittee shall notify the city as soon as possible thereafter and shall be liable for any damages occurring.

(h) Determination of Placement, Location, Depth, Separation of Lines. The oil and gas inspector is authorized to determine placement, location, depth and separation of line requirements in accordance with accepted industry standards.

(1965 Code of Ordinances, Chapter 13, Section 13-9)

Sec. 4.310 Exceptions

(a) New Developments Under the Subarticle Policy. Work done in new developments of the city by utility and street contractors under and in conformity with the city's subarticle policy is exempt from the provisions of this article.

(b) Work Performed by the City. Work done by the city under city contract and under directions of the city is exempt from the provisions of this article.

(c) Public Utility Companies With Franchises. Work done by public utility companies who operate under a current franchise from the city are exempt from the bond and insurance provisions of this article when doing such work with their own personnel, but this exemption does not apply to contractors doing work for said public utility company.

(d) Plumbers. Work done by plumbers who are qualified and bonded with a valid permit from

the city inspection department are exempt from the bond and insurance provisions of this article but must comply with the balance of this article.

(e) Construction Within Public Right-of-Way. No permit for construction within public right-of-way shall be issued unless the written application is accompanied by such plans and descriptions necessary and that such plans and descriptions are submitted to the oil and gas inspector and are approved by the city manager.

(1965 Code of Ordinances, Chapter 13, Section 13-10)

Sec. 4.311 Bond and Insurance Required

In the event a permit or certificate of compliance be issued by the city council or the oil and gas inspector under the terms of this article for the operation or drilling of a well or the installation of a trunkline pipeline, no actual operations shall be commenced or continued until the permittee shall file with the city secretary a bond and a certificate of insurance as follows:

- (1) Bond.
 - (A) Amount. A bond in the principal sum of such amount as has been determined by the city council, but not to be less than twenty-five thousand dollars (\$25,000.00) and the bond shall be executed by a reliable insurance company authorized to do business in the State of Texas, as surety, and the applicant as principal, running in the city for the benefit of the city and all persons concerned, conditioned that the permittee will comply with the terms and conditions of this article in the drilling and/or operation of the well or operation of any pipeline.
 - (B) Effective Date and Conditions. Such bond shall become effective on or before the date it is filed with the city secretary and will remain in force and effect for at least a period of six (6) months subsequent to the expiration of the term of the permit issued, and in addition, the bond will be conditioned that the permittee will promptly pay all legally imposed fines, penalties and other assessments imposed upon permittee by reason of his breach of any of the terms, provisions and conditions of this article and that the permittee will promptly restore the streets and sidewalks and other public property of the city which may be disturbed or damaged in the operations to their former condition, and that the permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the operations and will, after abandonment or completion, grade, level and restore such property to the same surface conditions as nearly as possible to those which existed when operations

were first commenced and that the permittee will indemnify and hold the city harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the city council shall deem any permittee's bond to be insufficient for any reason, it may require the permittee to file a new bond.

- (C) Reduction or Increase of Bond. If after completion of a producing well or any facility or pipeline for which a bond is required by this article and if the permittee has complied with all the provisions of this article such as removing derricks, clearing premises, erection of fences, etc., he may apply to the city council to have the bond reduced to a sum of not less than ten thousand dollars (\$10,000.00) on each well or facility for the remainder of the time the well produces or the facility is operated without reworking. During major well work over or in-hole remedial operations requiring the use of a rotary rig and/or high pressure injection equipment (such as deepening, cementing, bracing, re-perforating, etc.), the amount of the bond shall be increased to the original amount. A trunkline pipeline installation shall not be considered as completed until the lines have been tested and have been in operation for a period of thirty (30) days.

(2) Public Liability Insurance.

- (A) Amount. In addition to the bond required in subsection (1) above, the permittee shall carry a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damages, naming the permittee and the city with an insurance company authorized to do business with the State of Texas. Such policy or policies in the aggregate shall provide for the following minimum coverages:
- (i) Bodily injuries, one hundred thousand dollars (\$100,000.00) for one person; three hundred thousand dollars (\$300,000.00) for an accident.
 - (ii) Property damage, two hundred thousand dollars (\$200,000.00).
- (B) Filing of Duplicate Copies of Policies Required. Permittee shall file with the city secretary duplicate original copies of policies of insurance as above stated and shall obtain the written approval thereof by the oil and gas inspector who shall act thereon within ten (10) days from the date of such filing.
- (C) Notice of Cancellation Required. The insurance policy or policies shall not be canceled without written notice to the city secretary at least ten (10) days prior to the effective date of such cancellation. In the event such insurance policy or

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policies are canceled, the permit granted shall terminate and the permittee's right to operate under such permit shall cease until permittee files additional insurance as provided herein.

- (D) Reduction of Insurance. If after completion of a well or pipeline permittee has complied with all the provisions of this article such as removing derrick, completion of the pipeline, clearing premises, etc., he may apply to the oil and gas inspector to have such policies reduced as follows:
- (i) Bodily injuries, fifty thousand dollars (\$50,000.00) for one person; one hundred thousand dollars (\$100,000.00) for an accident.
 - (ii) Property damage, fifty thousand dollars (\$50,000.00) for the remainder of the time such well produced without reworking. During reworking operations, the amount of the insurance policy or policies shall be increased to the original amount.

(1965 Code of Ordinances, Chapter 13, Section 13-11)

Sec. 4.312 Exceptions to Bond and Insurance Requirements

The city council may elect to make an exception to the requirements of Section 4.311 when in their opinion the intent and purposes for the requirements of the bond and insurance can be assured by any of the following means:

- (1) Acceptance of a guaranty of indemnity to the city in lieu of bond and a plan of self insurance in the case of financially responsible operators.
- (2) Acceptance of a blanket bond and a single policy of insurance to cover all operations of the permittee within the city limits.
- (3) Application of bond and insurance requirements acceptable to the city council.

(1965 Code of Ordinances, Chapter 13, Section 13-12)

Sec. 4.313 Proximity of Facilities to Streets, Roads, Highways, Alleys; Permits to Encumber Required

No oil or gas well, separator or tank battery covered by this article shall be located closer than one hundred fifty (150) feet to any street, road, highway or alley, whether same is existing, platted or dedicated, without the written permission of the city council. (1965 Code of

Ordinances, Chapter 13, Section 13-13)

Sec. 4.313.1 Kiddie Park Prohibited Activities

No oil well, gas well, separator or oil or gas production equipment may be located upon the area known as the city Kiddie Park. (Ordinance 1964 adopted 12/6/07)

Sec. 4.313.2 Coleman Park Prohibited Activities

No oil well, gas well, separator or oil or gas production equipment may be located upon the area known as the City of Brownfield Coleman Park. (Ordinance 1996 adopted 8/6/09)

Sec. 4.314 Proximity of Wells, Tanks or Pipelines to Buildings

(a) No well shall be drilled and no permit shall be issued for any well to be drilled at any location nor shall any storage tank be located nearer than four hundred (400) feet to any residence or commercial building without the applicant having first secured the written permission of the city council and the and owner.

(b) No high pressure gas injection well or compressor shall be allowed or used within or under the city limits of the city.

(c) No residential, commercial or industrial structure other than structures necessary to operate the pipeline shall be erected or moved to a location nearer than thirty (30) feet to any pipeline transporting gas when the pipeline operating pressure is greater than two hundred fifty (250) pounds per square inch unless a greater or lesser distance is recommended by the then applicable ANSI Code.

(1965 Code of Ordinances, Chapter 13, Section 13-14)

Sec. 4.315 Prohibited Derricks and Rigs; Time Allowed on Site; Watchman Required

It shall be unlawful and an offense for any person to use or operate in connection with the drilling reworking of any well within the city limits any wooden derrick or any steam powered rig, and all engines shall be equipped with adequate mufflers approved by the oil and gas inspector. No person shall permit any drilling rig or derrick to remain on the premises or drilling site for a period longer than sixty (60) days after completion or abandonment of the well. At all times from the start of erection of a derrick, or a mast or a ginpole until the well is abandoned and plugged or completed as a producer and enclosed with a fence as herein provided, the permittee shall keep a watchman on duty on the premises at all times when other workmen or the permittee are not on such premises. (1965 Code of Ordinances, Chapter 13, Section 13-15)

Sec. 4.316 Type of Pits Required; Removal

Steel slush pits shall be used in connection with all drilling and reworking operations. Such pits and contents shall be removed from the premises and drilling site within thirty (30) days after completion of the well. No earthen slush pits shall be used. (1965 Code of Ordinances, Chapter 13, Section 13-16)

Sec. 4.317 Operations and Equipment; Practices; Standards

(a) Drilling, Operations, Equipment. All drilling and operations at any well performed by a permittee under this article shall be conducted in accordance with the practices of a reasonable and prudent operator in the Terry County area. All casing, valves and blow-out preventers, drilling fluid, tubing, bradenhead, Christmas tree and wellhead-connections shall be of a type and quality consistent with the practices of a reasonable and prudent operator. Each permittee under this article shall observe and follow the regulations of the Railroad Commission of the State of Texas.

(b) Design, Installation, Maintenance, Operation of Pipelines. All operations relative to the design, installation, maintenance and operation of pipelines shall conform to the requirements of this article and the applicable ANSI Codes and the standards of performance of the reasonable and prudent operators of the trades involved.

(c) Construction of Pipelines. All pipelines hereafter constructed shall be of all new pipe and shall comply with ANSI specifications.

(d) Valves. Valves shall be installed on all pipelines at such locations and spacing to safely and adequately control the operation of the line and to minimize the quantity of gas, oil or water that would be released from the line in case of line failure or rupture. The types and locations of all valves shall be indicated on a plan layout and approved by the oil and gas inspector.

(e) Electric Motors and Electrical Installations. Electric motors shall be used to drive all gas compressors, pumps or pumping units in the oil and gas operations, and all electrical installations and equipment shall conform to the ordinances of the City of Brownfield and the appropriate national codes.

(f) Pipeline Location Markers. Pipeline location markers shall be approved as to type and location by the oil and gas inspector, and the removal of any pipeline marker without the express permission of the oil and gas inspector shall constitute a violation of the provisions of this article.

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(g) Pipelines Crossing Thoroughfares. The pipelines crossing thoroughfares designated by the oil and gas inspector, even though cased by conduit, shall be cased, vented and marked in accordance with accepted practice of the pipeline industry.

(h) Time Restrictions for Certain Operations; Direction of Lighting. The delivery to or the removal of equipment or material from the drill site shall be limited to the hours between 7:00 a.m. and 9:00 p.m. except in cases of emergency. No pipe racking outside the derrick will be permitted during the hours between 9:00 p.m. and 7:00 a.m. except in cases of emergency. All lighting shall be shielded and directed so as to confine the direct rays to the drill site.

(1965 Code of Ordinances, Chapter 13, Section 13-17)

Sec. 4.318 Cleanliness and Sanitation

The premises shall be kept in a clean and sanitary condition satisfactory to the health office and the oil and gas inspector of the city. The permittee shall take reasonable precautions to prevent any mud, wastewater, oil, slush or other waste matter from flowing into the alleys, streets, lots or leases within the city limits of the city. (1965 Code of Ordinances, Chapter 13, Section 13-18)

Sec. 4.319 Motive Power for Operations

Electric motors shall be used to drive all pumping units, pumps or compressors and all transfer operations. No electric power shall be generated on location. All electrical installations and equipment shall conform to the ordinances of the City of Brownfield and the appropriate national codes. (1965 Code of Ordinances, Chapter 13, Section 13-19)

Sec. 4.320 Storage Tanks and Separators; Specifications

(a) Equipment; Location. A permittee shall use, construct and operate a steel conventional separator and such other approved tank and appurtenances as are necessary for treating oil and/or storing oil and/or water with each of such facilities to be so constructed and maintained as to be vapor tight and equipped with a vapor recovery unit. Each oil/gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head, which shall be vented into a tank to eliminate spraying. All such tanks shall be placed aboveground and the tanks shall be placed upon a suitable earthen or concrete pad.

(b) Central Tank Batter. The use of a central tank battery is permitted.

(c) Tanks to be Enclosed Within Firewalls. The tank or tanks shall be enclosed within a conventional type firewall constructed of compacted earth, and sufficient water shall be used during the firewall construction to assure adequate compaction.

(d) Capacity of Firewalls. The firewall enclosing the tanks shall have a minimum capacity equal to two (2) times the volume of the tanks enclosed, with provisions to pump out and keep clean.

(e) Height of Top or Crown of Firewall. The top or crown of the firewall shall have a normal height of three (3) feet above normal ground elevation. The location of the tank site shall be approved by the city oil and gas inspector.

(1965 Code of Ordinances, Chapter 13, Section 13-20)

Sec. 4.321 Conformance With Requirements of Surrounding Area

(a) Fences, Locking Gates, Landscaping. Any person who completes or operates any producing well shall have the obligation to enclose such well, together with its surface facilities, by a substantial fence six (6) feet high and properly built so as to ordinarily keep persons and/or animals out of the enclosure. All gates and exit ways shall be kept locked at all times except when the permittee or his employees are within the enclosure. In a developed residential area, the permittee will be obligated to landscape and maintain the appearance of the site to conform to the surrounding residential area. In no congested residential areas, the oil and gas inspector may designate the type of fencing to be erected. However, if the surrounding area subsequently develops into a residential neighborhood, the permittee will be obligated to conform to the residential landscaping and fencing requirements and appearance.

(b) Storage. The well site, tank site and tank battery site shall not be used for the storage of pipe, equipment or materials except during the drilling or servicing of the well, pipelines and tanks except where the site is located in an industrial or manufacturing zone.

(1965 Code of Ordinances, Chapter 13, Section 13-21)

Sec. 4.322 Nuisances to be Eliminated

All oil operations, drilling and production operations shall be conducted in such a manner as to eliminate as far as practicable, dust, noise, vibration or noxious odors and shall be in accordance with the reasonable and prudent practices incident to exploration for, drilling for and production of oil, gas and other hydrocarbon substances. (1965 Code of Ordinances, Chapter 13, Section 13-22)

Sec. 4.323 Fire Prevention

(a) Burning or Flaring of Oil or Gas Prohibited; Exception. Any permittee engaged in the

drilling or operation of an oil and/or gas well or the operation of any facility used in conjunction with the production of oil and/or gas within the city limits of the city shall take reasonable precautions to prevent gas from escaping into the air and shall not flare or burn gas or oil from any pipe stack, pit or any similar means within the city limits of the city; provided, gas may be burned for a limited time when necessary to complete any oil and/or gas well upon the original completion or upon the recompletion of work over jobs upon oil and/or gas wells so long as the same does not constitute a fire hazard to the property of others within the vicinity of such oil and/or gas well.

(b) Tank Header and Tank Battery Line Specifications. It shall hereafter be unlawful to operate a well for oil and/or gas without a four-inch header being laid over the top of the tank and a 2 1/2-inch line extending from the tank battery to a point designated by the oil and gas inspector. The manner and method provided for connection at such point shall be determined by the fire department of the city so that foamite or other chemicals may be pumped through such line or lines and the header of the tanks into such tanks to extinguish fires in the tanks.

(c) Emergency Firefighting Apparatus. Emergency firefighting apparatus and supplies, subject to approval by the fire department of the city, shall be maintained on the drilling site at all times during the drilling operations.

(d) Identification of Wells. The permittee shall place a sign at each well location or site to identify the well in accordance with RRC standards.

(1965 Code of Ordinances, Chapter 13, Section 13-23)

Sec. 4.324 Abandonment and Plugging of a Well

Whenever any well is abandoned, it shall be the obligation of the permittee and the operator of the well to comply with the regulations of the Railroad Commission of the State of Texas in connection with the abandonment and plugging of a well. A copy of the plugging and abandonment form shall be furnished to the oil and gas inspector. (1965 Code of Ordinances, Chapter 13, Section 13-24)

Sec. 4.325 Disposal of Salt Water and Other Impurities

Permittee shall take reasonable precautions for the disposal of all salt water and other impurities which he may bring to the surface so as not to contaminate the potable water supply, present or prospective, or to injure surface vegetation; and no salt water or other substance will be disposed of in wells or earthen tanks within the city. (1965 Code of Ordinances, Chapter 13, Section 13-25)

Sec. 4.326 Compliance With Federal and State Laws Required

Any violation of law of the State of Texas or any rules, regulations or requirements of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, installing, maintaining or abandoning any oil and/or gas well, pipelines or related appurtenances, equipment or facilities, or in reference to fire walls, fire protection, blow-out protection, safety protection or convenience of persons or property, shall also be a violation of this article and shall be punishable in accordance with the provisions hereof. (1965 Code of Ordinances, Chapter 13, Section 13-26)

Sec. 4.327 Violations; Penalties; Fines; Revocation of Permit; Application for Reissuance of Permit

It shall be unlawful and an offense for any person to violate or fail to comply with any provisions hereof, irrespective of whether or not the verbiage of each section hereof contains the specific language that such violation or failure to comply is unlawful and is an offense. Any person who shall violate any of the provisions of a permit issued pursuant hereto, or who shall fail to comply with the terms hereof, shall be guilty of a misdemeanor and shall on conviction thereof be fined in accordance with the general penalty provision set forth in Section 1.109 of this code; and the violation of each separate provision of this article, and of such permit, shall be considered a separate offense. In addition to the foregoing penalties, it is further provided that the city council of the city, at any regular or special session or meeting thereof, may, provided ten (10) days notice has been given to the permittee that revocation is to be considered at such meeting, revoke or suspend any permit issued under this article and under which operations are being conducted, in the event the permittee thereof has violated any provisions of such permit or this article. In the event the permit is revoked, the permittee may make application to the city council for a reissuance of such permit. (1965 Code of Ordinances, Chapter 13, Section 13-27)

Sec. 4.328 Annual Inspections of Wells Required; Inspection Fees

Each producing well and/or pumping unit, together with their associated equipment (tankage, separators, structures, fencing, landscaping, etc.), regulated by this article shall be inspected annually by the oil and gas inspector for the purpose of conformance to the various regulations. If any nonconformance is found, the permittee will be notified in writing of the violation immediately and the permittee shall begin to institute proceedings to come into full compliance with this article. The annual inspection fee shall be paid by the permittee. (1965 Code of Ordinances, Chapter 13, Section 13-28)

Sec. 4.329 Landscaping Required Around Well or Surface Facility

The land surrounding any well or surface facility which is required by any of the provisions of

this article to be landscaped shall be planted and maintained with grass, plants or shrubs during production operations, but only to an extent reasonably compatible with the general status of the surfaces in the vicinity. The entire controlled site shall be adequately landscaped except for those portions occupied by any required structure, appurtenances or driveway and all such landscaping shall be maintained in good condition at all times. (1965 Code of Ordinances, Chapter 13, Section 13-29)

Sec. 4.330 Equipment Subject to Inspection; Nuisances to be Minimized; Facilities Considered to be Within a Developed Residential Area

All equipment necessarily incident to the production of oil and/or gas within the city limits shall be subject to the inspection and approval of the appropriate qualified inspectors; oil and gas inspector, building inspectors, electrical inspector, fire and safety inspector, etc. All operations will be maintained in such a manner that will minimize dust, noise, noxious odors, vibrations and other offensive conditions to the surrounding residential area. Any aboveground facility which is located within or immediately adjoining any subdivided area where ten (10) percent of the lots or subdivided tracts within a one half-mile radius thereof are improved with residential structures or located within one-half (1/2) mile of any school or public building shall be considered within a developed residential area. (1965 Code of Ordinances, Chapter 13, Section 13-30)

Sec. 4.331 Loss of Well Control

In the event of loss of control of any well, the operator shall immediately take all reasonable steps to regain control of such well regardless of any other provision of this article, and shall notify the oil and gas inspector as soon as practicable after receipt of notice by his employees of the occurrence of such loss of well control endangering persons or property. If and when the oil and gas inspector certifies in writing to the city secretary that in his opinion danger to persons or property exists because of such loss of well control (briefly describing the same) and/or the operator is not taking or is unable to take all reasonable necessary steps to regain control of such well, the oil and gas inspector may employ any well control experts or other contractors or suppliers of special services, or may incur any other expenses for labor or material which the oil and gas inspector deems necessary to regain control of such well. The city shall have a valid lien against the interest in the well of all working interest owners who have voluntarily joined in the drilling of such well to secure payment of any expenditures so made by the city pursuant to the above provisions. (1965 Code of Ordinances, Chapter 13, Section 13-31)

Sec. 4.332 Report Required Upon Completion of Well

Within thirty (30) days after completion of any well, the permittee shall file in the office of the oil and gas inspector a final report including the casing program actually utilized in the well. The final report shall specify any changes in well location, depth and any other variation from the

terms of the permit. The final report shall specify the perforated interval and include information pertaining to other perforation, if any. (1965 Code of Ordinances, Chapter 13, Section 13-32)

Sec. 4.333 Geophysical Work Employing Underground Explosives, "Thumper," "Vibroiseis" Prohibited

No geophysical work employing underground explosives will be permitted anywhere at any time within the city limits nor shall other geophysical systems employing the "thumper," "vibroiseis" or other techniques even though not employing explosives be permitted. (1965 Code of Ordinances, Chapter 13, Section 13-33)

Sec. 4.334 Codes, Tests and Standards of Performance Prescribed

All reference in this article to ASA or USAS codes, tests or standards of performance are hereby eliminated, and there is hereby substituted for all such references ANSI codes, tests and standards of performance. (1965 Code of Ordinances, Chapter 13, Section 13-34)

Sec. 4.335 Attorney's Fees

The issuance of a permit pursuant to the provisions of this article constitutes a contract between the city and the permittee that the permittee shall be liable and must pay reasonable attorney's fees and costs incurred by the city in a successful enforcement of the provisions of this article. (1965 Code of Ordinances, Chapter 13, Section 13-35)

Sec. 4.336 Necessity of Contract With Surface Owner

(a) Neither this article nor any permit issued hereunder shall be interpreted to grant any right or licenses to the permittee to enter upon, use or occupy in any respect for the drilling or operation of any well on any surface land except by the written contract of the surface owner; nor shall it limit or prevent the free right of the owner or permittee to contract for the amount of damages, rights or privileges with respect to his own land and property or to use any other action allowed by law.

(b) This article shall never be interpreted to grant any rights or licenses to permittee to drill or operate any well on land in a subarticle in which the land or subarticle has been restricted to residential use only by the owners of the mineral estate thereof, unless consent from the owner of the surface estate and the owners in said subarticle is first secured by permittee.

(1965 Code of Ordinances, Chapter 13, Section 13-36)

ARTICLE 4.400 PAWNBROKERS^{*(4)}

Sec. 4.401 Compliance With Article

All persons managing, owning, maintaining or doing a pawnbroking, salvage and wrecking business, operating a secondhand store, or operating a junk business in the city shall comply with the terms of this article. (1965 Code of Ordinances, Chapter 14, Section 14-1)

Sec. 4.402 Records to be Kept

All pawnbrokers, salvage and wrecking dealers, secondhand stores and junk dealers shall keep books in connection with their business, wherein shall be entered an accurate description of all property pledged or sold to them, giving the name and address of the person pledging or selling same, and the place where the same occurs, and in the case of watches, motors and other articles having identification letter or number, the name of the maker and the model or serial number of the piece, and in all cases all property shall be as accurately and fully described as the nature of the article permits, and in such books there shall also be entered a general description of the person by whom same is deposited or sold, and the time when the same was done and the explanation given by the person as to the source of said articles. These entries shall be made as soon after any transaction is had as possible, in no event allowing more than one hour to elapse after such transaction before the above provided entry is made concerning the same. (1965 Code of Ordinances, Chapter 14, Section 14-2)

Sec. 4.403 Inspection of Records and Articles

These records and the articles themselves so pledged or sold shall at all reasonable times be subject to inspection and examination by the police officers of the city or the sheriff of Terry County and his deputies, or any other law enforcement officer in the city. All pawnbrokers, salvage and wrecking dealers, secondhand stores and junk dealers shall have their goods arranged in stock so as to enable the same to be inspected by the law enforcement officials and those in their company. It shall be unlawful for any such dealer to refuse to admit such officer to such place of business to inspect such property. (1965 Code of Ordinances, Chapter 14, Section 14-3)

Sec. 4.404 Daily List of Purchases to be Furnished to Police

All pawnbrokers, salvage and wrecking dealers, secondhand stores and junk dealers shall furnish to the chief of police a full and complete list each day of every article taken in pawn or bought by such dealers, giving a full description of same, maker, marks, number, brand, monogram or letter of any kind on such articles so pawned or bought by such dealer, together with the name and address of the person from whom such article was secured. Any such dealer refusing or

failing to furnish such list shall be deemed guilty of a violation of this article. (1965 Code of Ordinances, Chapter 14, Section 14-4)

Sec. 4.405 When Acceptance of Goods Prohibited

It shall be unlawful for any pawnbroker, salvage and wrecking dealer, secondhand store or junk dealer to accept delivery of any secondhand or used merchandise after 6:00 p.m. or before 7:00 a.m. (1965 Code of Ordinances, Chapter 14, Section 14-5)

Sec. 4.406 Property to be Held Ten Days

All property shall be held in an unaltered condition in the local store or warehouse for a period of at least ten (10) days before it is sold or disposed of or moved out of the city. (1965 Code of Ordinances, Chapter 14, Section 14-6)

Sec. 4.407 Order Stopping Sale, Etc., of Property

Any law enforcement official shall have the right, upon written order addressed to a particular pawnbroker or dealer, to stop the sale or removal or redelivery of any property for a stated period of time or until the property is released by such officer. After receipt of such order, it shall be unlawful for a pawnbroker or dealer to sell, dispose of, remove or redeliver such property until the property is released by the officer issuing the order. (1965 Code of Ordinances, Chapter 14, Section 14-7)

Sec. 4.408 Dealing With Minors

It shall be unlawful for any owner, manager or employee of any of the businesses regulated hereby, to buy or receive from any minor any goods, chattels or other property unless such minor shall have in his possession the written consent of his parent or guardian, provided that this provision shall not apply to any minor who is married or who has had the disability of non-age removed. (1965 Code of Ordinances, Chapter 14, Section 14-8)

Sec. 4.409 Responsibility of Owners, Etc., for Employees or Agents

Any owner, manager or operator of the businesses herein regulated whose employees or agents fail to observe any of the provisions of this article shall be equally guilty with the offender and subject to the same penalties. (1965 Code of Ordinances, Chapter 14, Section 14-9)

Sec. 4.410 Revocation of License

The conviction of any pawnbroker, salvage and wrecking dealer, secondhand store or junk dealer

of a violation of the provisions of this article shall work an immediate revocation of the license of such offender, which license shall not be renewed without special order of the city council. (1965 Code of Ordinances, Chapter 14, Section 14-10)

Sec. 4.411 Effect of Noncompliance With Article, Refusal to Keep Records, Etc.

Any person who shall violate any of the provisions of this article or fail or refuse to keep the books and records in connection with their business as provided for herein or who shall make false entries concerning the transactions named, or who shall fail or refuse to permit an inspection and examination of such books of the property pledged with or sold to them by any police officer as provided, shall upon conviction be punished as provided in the general penalty provision set forth in Section 1.109 of this code. (1965 Code of Ordinances, Chapter 14, Section 14-11)

ARTICLE 4.500 PEDDLERS AND ITINERANT VENDORS^{*(5)}

Sec. 4.501 Purpose

The purpose of this article is regulatory so as to generally require registration and identification of persons conducting commercial solicitation; and to protect the health, life, property and welfare of the citizens of the city against unwarranted and unreasonable solicitations. Notwithstanding anything to the contrary contained in this article, there shall be exempt from the registration requirements bona fide religious organizations and those otherwise participating in noncommercial solicitations.

Sec. 4.502 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:

Charitable Purpose. The solicitation of money or property, for the benefit of a charity, philanthropy, or nonprofit organization or for the poor, underprivileged, needy, crippled, or handicapped persons; the teaching of patriotism or assistance to veterans or veteran's organizations; or for existing educational institutions or for the establishment or endowment of educational institutions. Nonprofit organizations shall include, but not be limited to, multiple sclerosis, American Heart Association, muscular dystrophy, American Cancer Society, Boy Scouts of America, Girl Scouts, etc.

Consumer. An individual who acquires real or personal property, services, money, or credit for personal, family or household purposes.

Parkway. The area between the edge of the designated street and the adjacent owner's property line.

Peddler, Solicitor, or Person. Any individual, firm, company, partnership, corporation, association, trust, society, religious sect, organization, league, or other legal entity and includes any trustee, receiver, assignee, agent, or similar representative and includes all peddlers, solicitors, hawkers, canvassers, itinerant merchants or vendors and transient merchants or vendors of goods, wares, merchandise, services or any other articles.

Religious Organization. An organization that is dedicated to the support of a church, religious society, or any other religious sect, group, or order.

Sidewalk. Any surface provided for the exclusive use of pedestrians.

Solicitation. Conduct whereby a person or its agent, member, or representative:

- (1) Either orally or in writing, asks for a ride, employment, property, financial aid, money, or any article representing monetary value, for any purpose;
- (2) Whether orally or in writing, sells or offers to sell goods, services, publications, or subscriptions;
- (3) Distributes without remuneration goods, services, publications, or subscriptions; or
- (4) Solicits signatures on a petition or opinions for a survey.

The term "solicitation" shall include persons engaged in the delivery of handbills or circulars door-to-door for the solicitation of money, products, services or other items of pecuniary value. An offer of membership in any organization is expressly excluded.

Street. The portion of the street that is paved, designated, or used for vehicular traffic, and all areas dedicated to public use for public street purposes, which includes parkways, alleys, and sidewalks.

Traffic Island. A barrier within a street or roadway to exclude vehicles, designated for the purpose of separating or directing streams of vehicular traffic.

Sec. 4.503 Soliciting on Posted Property Prohibited

It shall be unlawful to solicit the sale of goods, wares, merchandise and services upon property posted by the owner, leasee or occupant with a sign stating “no soliciting” unless specifically requested by the owner, leasee or occupant of the premises.

Sec. 4.504 Permit Required

(a) It shall be unlawful for any person to attempt or to peddle, sell, solicit, canvass, or take orders for any services, wares, merchandise, or goods, or any article of value, including plants, flowers, paintings, novelties, painting house numbers on streets, firewood, books, magazines, photographs, or any articles for future delivery, on a sidewalk, parking lot or parkway within the city or from door-to-door without having first obtained a permit from the city.

(b) Each person engaged in peddling or soliciting or selling as described in subsection (a) of this section must have a permit issued under the terms of this section, and such permit shall be personal to the applicant and shall not be reproduced nor assigned nor transferred to any other person. Any such attempted transfer or reproduction shall render the permit void.

(c) Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this article, and such permit shall indicate the hours when peddling, solicitation and selling within the city is permitted in accordance with the provisions of this article.

(d) It shall be unlawful for any person who shall solicit funds in the city to represent in connection with such solicitation of funds that the issuance of a permit by the city constitutes an endorsement thereof.

(e) It shall be unlawful for any person to solicit funds for a purpose other than that set out in the registration statement or application upon which the permit was issued.

(f) A permit shall not be issued to any person under 13 years of age.

(g) Solicitation shall be deemed completed when made, regardless of whether the person making the solicitation receives any contribution or makes any sale.

Sec. 4.505 Application; Fee, Context, Etc.

(a) Permit Required. Every person desiring to solicit in the city shall, unless otherwise excepted, apply for a permit from the chief of police or his designee. Each application for a permit required by this section shall be in writing, under oath, notarized and shall set out the

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following:

- (1) The name and permanent address of the applicant.
- (2) If the person represents a partnership, corporation or association, then include the business address and telephone number of the business and the telephone number of the contact person.
- (3) The name, permanent address and telephone number of each person to solicit under the permit as well as of all individuals who will be in direct charge or control of the solicitation of funds.
- (4) Names and addresses of three persons as references, excluding relatives and persons living with the applicant.
- (5) The kind, type and character of goods, wares and merchandise offered or to be offered for sale or services he proposes to offer for sale, including the name brand, manufacturer, and distributor of goods and commodities and the name, publisher and distributor of all books, magazines or periodicals to be offered for sale.
- (6) Whether such applicant upon any such order so obtained will demand, accept or receive payment or deposit of money in advance of final delivery; and/or a description of the methods and means by which the solicitation of funds is to be accomplished.
- (7) The period of time such applicant so wishes to solicit, sell or take orders in the city. (Or how often the applicant will solicit during the year.)
- (8) The names of all cities where the applicant has worked within the previous three (3) months.
- (9) Whether the applicant, or any solicitor listed in the application, has ever been convicted or received deferred adjudication of a felony or a misdemeanor. If yes, the applicant shall include in the application the date of offense, type of offense, and disposition of the offense.
- (10) The state driver's license number or a state-approved identification card number of the applicant and each solicitor and the social security number of the applicant and each solicitor.

(b) Attachments. In addition, there shall be attached to each application for a permit, the

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following.

- (1) Two recent photographic likenesses of the applicant's face, and any solicitor soliciting under said permit, which photographs shall not exceed one inch squared in size;
- (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 canvassing, selling or soliciting for any firm or company, the permit shall be issued at the discretion of the chief of police;
- (4) Attach a copy of the current sales tax permit to said application;
- (5) Each applicant shall be required to attach a copy of their criminal history report that has been generated within 90 days by DPS. Chief of police or his designee may request to view the original criminal history report. Criminal history reports may be obtained at: www.txdps.state.tx.us or www.identogo.com. The applicant is responsible for all fees assessed to obtain a criminal history report.

(c) Application Fee. The application shall be accompanied by a fee for the original solicitor or applicant, plus an additional fee for each additional solicitor, as provided in appendix A to this code, for cost of the investigation and administration of the provisions of this article.

(d) Investigation of Applicant. It shall be the duty of the chief of police, or his authorized designee, to secure a background check through any lawful means on each applicant, and all other persons listed on the application before issuance of a permit, which investigation may include, but is not necessarily limited to, personal interviews with named individuals, verification of references and information contained within the application.

(e) Issuance. A permit applied for under this article shall be issued by the chief of police within ten days after the application is completed and filed, unless it is determined that the applicant has provided false or incomplete information on his application. A permit requested under this article shall be issued for the length of time requested, not to exceed twelve months. An expired permit may be renewed under the same terms and conditions as the original application and subject to the same fees.

(f) Form. On the front side, each permit shall be printed in black, except that the following

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shall be printed prominently thereon in red: “The issuance of the permit is not an endorsement by the city or any of its officers or employees.” Each permit shall have a photo of the permit holder and bear a permit number, which is the same as the file containing the application filed by the applicant. On the back, each permit shall have the following statement: “If you have any concerns, questions, or problems, contact the Brownfield Police Department (806) 637-2511.”

(g) Permit to be Displayed. It shall be unlawful for any person to sell or solicit in the city without displaying the permit required by this section by wearing the permit around the neck on the officially issued lanyard with the badge holder at all times while engaged in such soliciting or selling.

(h) Exhibiting Permit. Every solicitor or peddler or seller shall identify himself as a salesperson upon approaching a citizen in a public place or at a private dwelling and explain his purpose, whether it be direct sales, solicitation or orders of the demonstration of goods or merchandise, or any combination of purposes thereof, and properly wear the permit as required by subsection (g) and, shall allow a citizen to obtain the information on the back of the permit, if requested.

(i) Responsibility for Acts of Solicitors. The recipient of a permit or named applicant shall be responsible for the acts of his authorized representatives or solicitors listed in the permit application in connection with solicitation activities. In this regard, the recipient of the permit shall actively supervise all persons listed in the permit application, which supervision shall include, but not be limited to, remaining within the corporate city limits during all solicitation activity and responding promptly (within ten minutes) to calls by city representatives relative to the solicitation activity which may include responding to an on-site complaint from a citizen.

(j) Revocation of Permit.

- (1) If, after the permit required by this section has been issued, the chief of police, or his authorized designee, finds that the permit was obtained by false representation in the application, or the permit has been reproduced or transferred or assigned to another person or the applicant has led someone to believe the permit is an endorsement of the applicant’s product or service by the city, or in the event of fraud or misrepresentation by the permit holder, or in the event of conviction of the permit holder of a felony or a misdemeanor involving moral turpitude, or in the event the permit holder has failed to furnish the items required by this article, such permit may be revoked by the chief of police or his authorized designee.
- (2) If a police officer or the chief of police has probable cause to believe that a solicitor has engaged in prohibited conduct as defined by this article, the officer may revoke the permit of the permit holder.

- (3) If more than one complaint of misconduct by a solicitor or group of solicitors working for the same company is received, the permit may be immediately revoked by the city.

(k) Appeal From Denial or Revocation of Permit. Should an applicant be denied a permit, or have a permit revoked, he may appeal that action to the city council by submitting a letter to the city manager within ten days to complain of that action. A hearing of the denial will then be scheduled for the next regular meeting of the city council, or a special meeting of the city council, to be held within 30 days of the appeal. The city council shall render a decision on the appeal within one day of the date of the hearing. Such hearing shall be an administrative hearing. Adherence to formal rules of evidence shall not be required. The decision of the city council shall be final and binding. No new application for a permit will be considered for six months after denial or revocation, unless said denial or revocation is without prejudice or is conditional and the conditions have been satisfied as determined by the chief of police.

(l) Exemptions.

- (1) The following persons engaged in the activities set out in subsections (a)(1) through (a)(4) of this section in the city shall first register with the permits and inspections department by filling out a form to be promulgated by the city buildings and inspections department in accordance with the provisions of this article and by furnishing proof that he is actually engaged in such activity in the city, and the city building official shall issue to such person a registration certificate exempting him from the terms and conditions of this section and from paying a fee therefor, namely:
 - (A) Public utility companies or others operating under a franchise granted by the city;
 - (B) Commercial agents dealing with local business establishments in the usual course of business; and
 - (C) Insurance salesmen, real estate salesmen and others licensed by the state.
- (2) Solicitations related to children's activities, including, but not limited to, Girl Scouts, Boy Scouts, and Big Brothers and Sisters, which may involve children under the age of 13. Children under the age of 13 may participate in such activities to the extent they are actively supervised by a parent, guardian or other adult person, at least 18 years of age, who is responsible for the well being of the child.
- (3) Religious, political or nonprofit organizations and their representatives distributing

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handbills or pamphlets only for the purpose of communicating issues of general interest to the public need not register with the city permits and inspections department or pay a permit fee. A donation received from the distribution of handbills or pamphlets does not affect this exemption.

(m) Bond. Each person engaging in solicitation activities requiring cash deposits or taking orders on delivery purchases (COD) or who requires a contract of agreement to finance the sale of any goods, services or merchandise for future delivery, or for services to be performed in the future, shall furnish to the city a cash bond in the amount of

\$5,000.00, naming the applicant for the permit as principal. The bond shall be in full force and effect for one year from the date of issuance of the permit, unless otherwise extended by demand of the city due to the revocation of the permit, or an anticipated delivery date beyond 12 months, in order to protect the citizens of the city from potential losses associated with such solicitations.

Sec. 4.506 Prohibited Location, Activities and Conduct

(a) It shall be unlawful for any person to peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service in the following places in the city:

- (1) On any public street or alley or traffic island;
- (2) Within 25 feet of the following facilities:
 - (A) ATM machines;
 - (B) Entrances and exits of banks, credit unions, or other financial institutions;
 - (C) Self-service carwashes;
 - (D) Self-service fuel pumps;
 - (E) Public transportation stops; or
- (3) Any residence which shall exhibit in a conspicuous place upon or near the main entrance to the residence containing the words "no solicitors." The letters shall be not less than two-thirds of an inch in height and should be displayed on a weather proof card not less than three inches by four inches in size.

(b) It shall be unlawful for any person to block or obstruct or hinder the free flow of traffic in the lawful use of the street or free passage of pedestrians in the lawful use of the sidewalk. No solicitations, sales, or distribution of merchandise, products, or service shall be offered or made to occupants of motor vehicles moving or stopped in traffic on a public street or alley.

(c) It shall be unlawful for a person engaged in solicitation to:

- (1) Misrepresent the purpose of the solicitation;
- (2) Misrepresent the affiliation of those engaged in the solicitation;
- (3) Continue efforts to solicit from an individual once that individual informs the

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solicitor that he does not wish to give anything to or buy anything from that solicitor;

- (4) Represent the issuance of any permit or registration under this article as an endorsement or recommendation of the solicitation;
- (5) Remove, deface, or render illegible a card placed by the occupant of a residence pursuant to subsection (a)(3) of this section;
- (6) Go on property upon which the owner of the property or the person controlling the property has posted signs prohibiting solicitation; or
- (7) Remain on property after the property owner, or the property owner's designee, representative or agent, has instructed the solicitor to leave.

(d) No solicitor, or person working on his behalf, shall shout, make an outcry, blow a horn or whistle, or use any sound device, including any sound amplifying system, upon any of the streets, avenues, alleys, parks or other public places of the city, or otherwise be in violation of the city's noise ordinance.

(e) No person shall engage in solicitation through the delivery of handbills or circulars by placing said handbills or circulars on motor vehicles, public utility posts, or other location such that the same constitutes littering under state laws. It is presumed that the person or business whose address or telephone number is listed in the notice, poster, paper, or device, or who is otherwise named, described, or identified in the notice, poster, paper, or device, is the person or business who committed the violation, either personally or through an agent or employee.

(f) It shall be unlawful for any person to use children 13 years of age or younger for solicitation activities, unless otherwise expressly permitted herein, unless such children are actively supervised by a parent, guardian or other adult person at least 18 years of age who is registered as provided herein. For purposes of this section, actively supervised means that the adult person shall be within 100 feet of all children 13 years of age or younger for whom the adult person is responsible at all times when the children are engaged in solicitation activities.

Sec. 4.507 Times When Soliciting Prohibited

No person shall peddle, solicit, hawk, sell or take orders for or offer to take orders for any item or service at a private residence in the city after 7:00 p.m. until 9:00 a.m., Monday through Saturday, unless the transaction is the result of a request made to such person by the occupant of such private residence. There shall be no solicitations on Sunday, New Years Day, Fourth of July, Memorial Day (observed), Labor Day (observed), Thanksgiving, or Christmas Day.

Sec. 4.508 Right to Solicit Upon Specific Property

No person may use any lot, parking lot, open space, building, structure or area within the city for the purpose of soliciting persons passing by the property without written documentation showing the person is the owner or lessee of the property or has specific authorization from the owner or lessee of the property to use the property to solicit.

Sec. 4.509 Penalty

Any person violating any of the provisions of this article, shall upon conviction thereof, be fined in accordance with Section 1.109 of this code. Each individual instance a violation of this article occurs or continues shall constitute a separate offense. Allegation and evidence of a culpable mental state is not required for proof of any offense defined in this article.

(Ordinance 2060 adopted 3/5/15)

ARTICLE 4.600 SEXUALLY ORIENTED BUSINESSES*⁽⁶⁾

Sec. 4.601 Authority

(a) These regulations are promulgated pursuant to and in conformity with Chapter 243 of the Local Government Code of Texas, as amended.

(b) It is the purpose of the city to establish reasonable and uniform regulation of sexually oriented businesses to promote and protect the health, safety and general welfare of the citizens of the city.

(c) The provisions of these regulations have neither the intent nor the effect of imposing limits or restrictions on the content of any communicative material, including sexually oriented material; nor is it the intent or effect of these regulations to restrict or deny adults access to sexually oriented material protected by the First Amendment. Similarly, there is no intent to deny access to the intended market of distributors and exhibitors of sexually oriented entertainment.

(d) These regulations do not legalize anything prohibited under the penal code, other law or regulation.

(1965 Code of Ordinances, Chapter 16 3/4, Article I, Section 16 3/4-1)

Sec. 4.602 Administration

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(a) Chief of Police to Investigate, Etc., Permits; Peace Officers to Enforce. The city council hereby designates and directs the chief of police or his duly authorized agents to investigate, deny, issue, suspend and revoke permits pursuant to the above authority and these regulations. Any peace officer certified by the state may enforce these regulations.

(b) The Chief of Police's Determination. Shall be appealable to a hearing examiner appointed by the city council upon written request by the applicant unless otherwise provided for in these regulations. The request must be delivered to the chief of police within fifteen (15) days after the notice of the chief of police's determination. The written request for a hearing shall set out the grounds on which the denial is challenged. The hearing shall be conducted within thirty (30) days of notice to the applicant of the chief of police's determination. An appeal shall not stay the chief of police's decision. The chief of police's decision shall be final unless an appeal is timely filed. The hearing examiner appointed by the city council shall be an individual licensed to practice law in Texas.

(c) Jurisdiction of District Court. Pursuant to Section 243.007(c) of the Local Government Code, the district court has jurisdiction over disputes which arise from the denial, suspension or revocation of permits by a municipality or county.

(d) Penalty for Violations. The violations of any provision of these regulations, including failure to perform as required herein, shall be punishable as provided by Section 243.010(b) of the Local Government Code as amended. Each day a violation continues constitutes and is punishable as a separate offense.

(e) Revocation or Suspension and the Imposition of Criminal Penalties. The revocation or suspension of any permit shall not prohibit the imposition of a criminal penalty and the imposition of a criminal penalty shall not prevent the revocation or suspension of a permit.

(1965 Code of Ordinances, Chapter 16 3/4, Article I, Section 16 3/4-2)

Sec. 4.603 Definitions

The following definitions shall apply in the interpretation and enforcement of this article:

Adult Arcade. Any place the public is allowed or invited where image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by the depiction and description of specified sexual activities or specified anatomical areas as defined in this section. The devices include, but are not limited to coin or slug-operated, electronically or mechanically controlled, still or motion picture machines and projectors.

Adult Bookstore or Adult Video Store. An establishment that as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations that depict or describe specified sexual activities or specified anatomical areas as defined in this section.
- (2) Instruments, devices or paraphernalia that are designed for the use in connection with specified sexual activities as defined in this section.

Adult Cabaret. A nightclub, bar, restaurant or similar commercial establishment that features:

- (1) Persons who appear in a state of nudity as defined in this section;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or specified sexual activities as defined in this section; or
- (3) Films, motion pictures, video cassettes, slides or other reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this section.

Adult Motel. A hotel, motel or similar commercial establishment that:

- (1) Offers accommodations to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this section;
- (2) Offers a sleeping room for rent for a period of time less than ten (10) hours; or
- (3) Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than ten (10) hours.

Adult Motion Picture Theater. A commercial establishment that regularly shows, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproduction which are characterized by the depiction or description of specified sexual activities or specified anatomical areas as defined in this section.

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Adult Theater. A theater, concert hall, auditorium or similar commercial establishment that regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or specified sexual activities as defined in this section.

Allow. To let happen, cause, suffer or permit, including the failure to prevent.

Applicant. The individual or entity that will be the intended operator of the enterprise.

Area Covered by Regulations. The area covered by this article shall be the city limits of the city as now or hereafter defined by the city council.

(1965 Code of Ordinances, Chapter 16 3/4, Article I, Section 16 3/4-3)

Bookstore or Video Store. An establishment that as one of its business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion pictures, video cassettes or video reproductions, slides or other visual representations that depict or describe specified sexual activities or specified anatomical areas as defined in this section.
- (2) Instruments, devices or paraphernalia that are designed for the use in connection with specified sexual activities as defined in this section.

(Ordinance 1814 adopted 4/9/98)

Cashier. Any employee who handles cash or any other form of payment from the clients of an enterprise for services or products provided.

Chief of Police. The chief of police of the City of Brownfield or the chief of police's designated agent.

Child Care Facility. A building used as a day nursery, children's boarding home, child placement agency or other place for the care or custody of children under fifteen (15) years of age, licensed by the State of Texas pursuant to Article 4442c, Vernon's Texas Civil Statutes.

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

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City. An incorporated city, town or village.

City Council. The city council of the City of Brownfield.

County. Terry County, Texas.

Dwelling. A house, duplex, apartment, townhouse, condominium, mobile home or any other building used for residential purposes.

Employee. Any person who works in or about an enterprise and renders any service whatsoever to the customers of an enterprise and receives compensation for such service or work from the operator or owner of enterprise or from the patrons thereof.

Escort. A person who for consideration agrees or offers to privately model, dance, or similarly perform for another person, or to act as a private companion, guide or date for another person. This shall include but not be limited to strippers who perform for private parties.

Escort Agency. A person or business association that for consideration furnishes, offers to furnish or advertises to furnish escort as one of its primary business purposes.

Hospital. A building used to provide in-patient medical care for the sick or injured licensed pursuant to the Texas Hospital Licensing Law (article 4437f Vernon's Texas Civil Statutes), as a convalescent facility pursuant to Article 4442c, Vernon's Texas Civil Statutes, or is operated by an agency of the federal government.

Live Exhibition. Includes but is not limited to dancing, modeling, sword swallowing, juggling, acrobatic acts, wrestling and pantomime.

Nude Modeling Studio. A place where for any form of consideration a person models in a state of nudity or displays specified anatomical areas as defined in this section for other persons to sketch, draw, paint, sculpt, photograph or similarly depict or observe.

Nudity or State of Nudity. Any state of dress which fails to opaquely cover a human buttock, anus, male genitalia, female genitalia or areola of a female breast.

Operator. The manager or other natural person principally in charge of an enterprise.

Person. An individual, partnership, corporation, association or other legal entity.

Public Building. A building used by federal, state or local government that is open to the general public.

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Public Park. A tract of land maintained by the federal, state or local government for the enjoyment of the general public.

Regulations. Regulations of City of Brownfield, Texas, for the operation of sexually oriented business enterprises.

School. A building used for the primary purpose of instruction or education, including playgrounds, dormitories, stadiums and other structures or grounds considered to be part of the facility.

Server. An employee who serves patrons food or beverages in an enterprise, including waiters, waitresses, hosts, hostesses and bartenders.

Sexual Encounter Center. A business or commercial enterprise that as one of its primary business purposes offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity.

Sexually Oriented Business Enterprise. A sex parlor, nude modeling studio, love parlor, adult bookstore, adult movie theater, adult arcade, adult video store, adult motel, adult cabaret, escort agency, sexual encounter center or other similar commercial enterprise where the primary business is to offer a service or to sell, rent or exhibit devices or other items intended to provide sexual stimulation or sexual gratification to the patron. The term "enterprise" shall not be construed to include:

- (1) A business operated by or employing licensed psychologists, licensed physical therapists, licensed athletic trainers, licensed cosmetologists or licensed barbers that, as the major business purpose, perform functions authorized under the license held;
- (2) Any business operated by or employing licensed physicians or licensed chiropractors engaged in practicing the healing arts as the major business purpose;
- (3) Any retail establishment whose major business purpose is the offering of wearing apparel for sale to customers;
- (4) A massage establishment which is properly registered under Chapter 752, Acts of the

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69th Legislature, Regular Session, 1985 (Article 4512K, Vernon's Texas Civil Statutes), as amended; or

- (5) A bookstore, movie theater or video store, unless that business is an adult bookstore, adult movie theater or adult video store as defined in this section.

SOBP. Sexually oriented business permit.

SOEP. Sexually oriented employment permit.

Specified Anatomical Areas. Human genitals in a state of sexual arousal, whether clothed or nude.

Specified Sexual Activities. Includes any of the following:

- (1) Fondling or erotic touching of human genitals, pubic region, buttocks, anus or female breasts whether clothed or nude;
- (2) Sex acts, actual or simulated, including intercourse, oral copulation or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in items (1) through (3) above.

Transfer of Ownership or Control. Includes any of the following:

- (1) Sale, lease or sublease of the business;
- (2) Transfer of securities which constitute a controlling interest in the business whether by sale, exchange, gift or similar means; or
- (3) Establishment of a trust, gift or other similar legal device that transfers that ownership or control of the business, except for the transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(1965 Code of Ordinances, Chapter 16 3/4, Article I, Section 16 3/4-3)

Sec. 4.604 Inspections

The chief of police or his designated agent shall make reasonable, periodic inspections of the

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premises of all enterprises covered by these regulations. (1965 Code of Ordinances, Chapter 16 3/4, Article I, Section 16 3/4-4)

Sec. 4.605 Misdemeanor

Violation of any provision of these regulations is a class C misdemeanor. (1965 Code of Ordinances, Chapter 16 3/4, Article I, Section 16 3/4-5)

Sec. 4.606 Notices

(a) Any notice required to be given by the chief of police under these regulations to any applicant, owner or operator may be given by personal delivery or by United States mail, postage prepaid, addressed to the most recent address as specified in the application for the permit or the most recent notice of address change.

(b) Mailed notice shall be deemed given three (3) days after deposit in the United States mail.

(c) In the event that notice given by mail is returned by the postal service with a notification that the address is not correct, it shall be considered a violation of the affirmative duty to notify the chief of police of any change of address unless there was error on the part of the post office, and:

- (1) In the case of notice in connection with a SOBP, the chief of police shall have the notice posted at the entrance to the enterprise;
- (2) In case of notice in connection with a SOEP, the chief of police shall make reasonable efforts to provide the holder with notice; and
- (3) If after duly diligent efforts to notify the SOEP applicant/holder the chief of police is unable to locate the applicant/holder, a SOEP shall be automatically suspended until the applicant/holder contacts the chief of police with a current address.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-16)

Sec. 4.607 Temporary Permit Provisions

Failure of the chief of police to take timely action or give notice of his action on an application, or failure by the hearing official to timely conduct or give notice of the decision on an appeal shall entitle the applicant to the immediate issuance of a temporary permit upon written demand. Demand shall be filed by the applicant with the chief of police. A temporary permit shall only be valid until the third day after the notice of the chief of police's action on the application or the

hearing official's notice of the decision on appeal. This section only applies where delay is not caused by the action of the applicant. (1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-17)

Sec. 4.608 Permit Renewals

(a) When Renewals Required; Form of Renewal. Permits shall be reviewed for renewal upon application to the chief of police not more than thirty (30) days prior to the expiration date. The form for renewal application shall be provided by the chief of police.

(b) Fee. An annual nonrefundable renewal fee to be set by the city council shall accompany the application for renewal to defray costs of inspections and investigation. The fee shall be paid in the form of cash, money order, cashier or bank check.

(c) Information Required for Renewal. The renewal application shall contain:

- (1) Certification by the applicant that there have been no changes in the information provided in the initial application; and/or
- (2) Any information which has changed since the initial application along with any related documentation reworded in the initial application.

(d) Police Chief's Determination. The chief of police shall make the determination regarding renewal within fourteen (14) days of receipt of the completed renewal application or by the expiration date of the previous permit, whichever period is longer.

(e) When Temporary Permits Not Issued. If a renewal application is submitted less than fourteen (14) days before the previous permit expires, there shall be no temporary permit issued to extend the permit. The original permit will expire and until the chief of police's determination on renewal, there will be no valid permit.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-18)

Sec. 4.609 Investigation

Upon receiving the application for a SOBP or SOEP or an application for renewal, the chief of police shall cause to be conducted an investigation to determine compliance with the regulations pertaining to that permit. (1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-19)

Sec. 4.610 Transfer Prohibited

A permit issued under these regulations is not transferable, assignable or divisible and it shall be unlawful for any person to use a permit which has been issued to another person under these regulations. (1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-20)

Sec. 4.611 Obtaining SOEP or SOBP by Fraud

It shall be unlawful for any person to knowingly make any false, fraudulent or untruthful representation, written or oral, or in any other way knowingly conceal any material fact required in the permit application. It shall also be unlawful to give or use any assumed name or fictitious name other than the one duly filed for record in compliance with the assumed Business or Professional Name Act (Vernon's Texas Codes Annotated, Business and Commerce Code, Chapter 36). (1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-21)

Sec. 4.612 Changing or Defacing Permit

It shall be unlawful for any person to counterfeit, forge, change, deface or alter a permit issued under these regulations. (1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-22)

Sec. 4.613 Permit Required; Separate Permit for Employees

(a) It shall be unlawful for any person to own or operate an enterprise at a location covered by these regulations pursuant to Section 4.603 without a valid permit issued in accordance with these regulations. A separate application and permit shall be required for each enterprise. An enterprise without a permit is hereby declared to be a public nuisance.

(b) An SOBP does not authorize any individual applicant acting in any of the capacities specified in Section 4.620 to be employed by the enterprise without a sexually oriented employment permit (SOEP). The individual must separately apply for an SOEP, but is required to pay only the higher of the permit fees.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-35)

Sec. 4.614 Permit Displayed

(a) An SOBP issued under these regulations shall be displayed at all times in an open and conspicuous place in the enterprise for which it was issued.

(b) In any prosecution under these regulations, it shall be presumed that there was no SOBP at the time of the alleged offense unless it was posted as provided in subsection (a) above.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-36)

Sec. 4.615 Injunction

(a) A person who operates or allows the operation of an enterprise without a valid permit or otherwise in violation of these regulations is subject to a suit for injunction pursuant to Section 243.010 of the Texas Local Government Code in addition to prosecution for criminal violations.

(b) The city attorney is hereby authorized to file suit to enjoin the violation of this article. Suit may be initiated upon information received from private citizens or law enforcement agencies.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-37)

Sec. 4.616 Permit Application

(a) Required; Receipt or Notice of Omissions. To obtain a permit to operate an enterprise, a written application shall be filed with the chief of police on the form provided by the chief of police or an accurate and legible facsimile of that form. The completed application including any attachments, shall be hand delivered to the chief of police's office during regular working hours or mailed "return receipt requested." A receipt shall be mailed to the applicant upon confirmation that the application is complete. The receipt or a notice of omissions shall be mailed to the applicant within five (5) days of delivery of the application to the chief of police.

(b) Fee. A fee determined by the city council shall accompany the submission of each application to defray the cost of investigations required by this section. An annual nonrefundable renewal fee shall be charged to defray associated costs of investigation. The fee shall be paid in the form of cash, money order, cashier or bank check.

(c) Required in Formation Generally. Each applicant shall furnish the following information to the chief of police:

- (1) The full legal name and any other name used by the applicant, applicant's Social Security number and driver's license or Texas Identification Number.
- (2) A general description of the enterprise, which shall include the address where it will be located and the services to be provided. That address shall be the only location for which the permit will be valid.
- (3) The applicant's complete business license or permit history. This shall include any permit or license which has been issued to the applicant by any agency, board, county or state and any professional or vocational license or permit. This shall include those

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which have expired or are currently in effect and shall include any license or permit that has been denied or was issued to the applicant and subsequently revoked or suspended. If there have been licenses or permits which were denied, revoked or suspended, the permit history shall include the reasons therefore.

- (4) The name and address of the owner of the real property upon or in which the business is to be located and a copy of any lease or rental agreement.
- (5) The name and residential address of the operator of the business.
- (6) If applicant intends to operate the enterprise under an assumed name, a certified copy of the assumed name certificate filed in compliance with the Assumed Business or Professional Name Act (V.T.C.A., Business and Commercial Code, Chapter 36).
- (7) The city council finds the operation of an enterprise to be inconsistent with the following property uses and the applicant must certify that the proposed enterprise will be located:
 - (A) A minimum of one thousand (1,000) feet from a child care facility, school, dwelling, hospital, public building, public park or church or place of religious worship.
 - (B) A minimum of one mile from a penal institution, as defined by the Penal Code, including but not limited to halfway houses.
 - (C) The applicant must certify that there are no more than two (2) other enterprises within two thousand (2,000) feet of the proposed enterprise.
 - (D) This subsection shall apply only to property uses in existence at that location at least thirty (30) days prior to that date of application.
 - (E) For the purposes of this section, measurements shall be made in a straight line from the nearest portion of the property line used by the enterprise to the nearest portion of the property line of the building, structure or facility set forth in subsections (A), (B) and (C) above.
 - (F) Enterprises operating on the date of the adoption of these regulations and located in violation of subsections (A) and (B) above shall include in the application proof that the business has not recouped the owner's investment prior to the date of application. This shall include:

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- (i) The amount of the owner's investment in the existing enterprise through the date of passage and approval of these regulations;
 - (ii) The amount of the investment that has been or will be realized through the projected SOBP approval date (forty-five [45] days from application);
 - (iii) The life expectancy of the enterprise;
 - (iv) The existence or nonexistence of lease obligations, as well as any contingency clauses therein permitting termination of the lease;
 - (v) A proposed schedule for amortization of the investment to be considered in light of the intent of these regulations;
 - (vi) Enterprises which are in operation on the date of the adoption of these regulations and are in violation of subsection (C) above shall include in the application proof that the investment has not been recouped as set out in subsection (F) above. The three (3) enterprises in operation at the earliest point in time within the conflicting area shall be considered to be in compliance with these regulations. Those enterprises established after the initial three shall be in violation of these regulations and shall be subject to these amortization provisions.
- (G) Upon evaluation of the proof and a finding that a proposed amortization is reasonable under the circumstances, the chief of police shall approve the SOBP if the enterprise is in compliance with all other provisions of these regulations. The SOBP shall only be renewed through the amortization period and no permit shall be issued for that location beyond that period unless circumstances change to bring the location into compliance with these regulations.
- (H) Upon a finding that the proposal is not reasonable under the circumstances, the chief of police shall make a counter proposal or recommendation and the applicant shall resubmit a revised proposal.
- (8) The application shall contain a statement under oath that:
- (A) The applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct; and
 - (B) The applicant has read and understands these regulations.

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(d) Information Required of Individuals. If the applicant is an individual, the applicant shall provide in addition to the items required in subsection (a) above:

- (1) Each of the applicant's residential addresses for the three (3) years immediately preceding the date of the application, indicating the dates of each residence and including the present address and telephone number of the applicant.
- (2) Applicant's business, occupation and employment history for the three (3) years immediately preceding the date of application indicating the applicable dates and addresses.
- (3) Documentation that the applicant is at least nineteen (19) years of age.
- (4) Applicant's height, eye color and natural hair color.
- (5) Two (2) photographs of the applicant taken within one month immediately preceding the date of application. The size and characteristics of the photograph shall be specified by the chief of police. One photograph shall be affixed to the permit and one photograph shall be retained by the chief of police. A new photograph may be required by the chief of police upon application for renewal, of the permit.
- (6) Applicant's criminal history which shall consist of a statement of any and all criminal convictions and the date and place thereof. The statement shall include any charges to which the applicant entered a plea of nolo contendere or for which the applicant received deferred adjudication, but shall not include traffic violations.
- (7) The chief of police may require the applicant to furnish fingerprints for the purpose of establishing identification.
- (8) Other identification and information as reasonably necessary in order to confirm the validity of information provided in the application.

(e) Information Required of Corporations, Etc. If the applicant is a corporation, partnership, joint venture or other similar business entity to which the requirements of subsection (b) above would not apply, the applicant shall provide in addition to the requirements of subsection (a):

- (1) If the applicant is a Texas corporation, a certified copy of the articles of incorporation with amendments; names and residential addresses of current officers and directors; and the name and address of each stockholder holding more than five (5) percent of the stock of the corporation.

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- (2) If the applicant is a foreign corporation, a certified copy of the certificate of authority to transact business in this state with all amendments, names and residential addresses of current officers and directors, and names and addresses of each stockholder holding more than five (5) percent of the stock of the corporation.
 - (3) If the applicant is a general or limited partnership, the application shall set forth the name and residential addresses of each of the partners, including limited partners. If the applicant is a limited partnership formed under the laws of Texas, a certified copy of the certificate of limited partnership filed with the office of the Secretary of State and amendments.
 - (4) If one or more of the partners is a corporation, the provisions of this section pertaining to the corporate applicants shall apply.
 - (5) If the applicant is a joint venture or other similar entity, the names and residential addresses of the participants (if individuals), and the applicable information required in items (1), (2), (3) and (4) above if the participants are corporations or partnerships.
 - (6) A corporate applicant shall designate one officer to act as responsible managing officer. Partnerships shall designate a general partner to act as responsible managing officer. Joint ventures or other business entities shall designate an appropriate individual participant or owner to act as its responsible managing officer. The managing officer shall complete and sign all application forms required of an individual under this section, but the fee for the one application will be charged.
- (f) Other Accompaniments. Each application shall be accompanied by the following:
- (1) A nonrefundable fee established by the city council. The fee shall be paid in the form of cash, money order, cashier or bank check.
 - (2) A sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.
- (g) Investigation. The chief of police shall have twenty-one (21) days from receipt of the application in which to investigate the application and the background of the applicant. Compliance with other provisions of these regulations may from time to time require an extension of the investigatory period in which case an extension, reasonable under the circumstances, shall be allowed.

(h) Occurrences Requiring Notification of Police Chief. The applicant shall be under a continuing affirmative duty throughout the application period and the effective dates of the permit to notify the chief of police of any of the following events. Notice shall be provided in writing and delivered within seven (7) days immediately following the occurrence of:

- (1) Address or name change of the applicant;
- (2) Revocation of any permits or licenses listed in the applicant's permit history pursuant to subsection (c) (3);
- (3) The applicant, operator or any employee of the enterprise being formally charged with any crime listed under Section 4.617.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-38)

Sec. 4.617 Permit Issuance or Denial

(a) A permit shall be issued within twenty-eight (28) days of receipt of the application and the information required by these regulations, unless the application is denied for one of the following reasons:

- (1) The applicant, applicant's spouse, or if the applicant is a corporation, partnership or other business entity, any officer, director holder of five (5) percent or more stock, partner or participant was convicted, received deferred adjudication or entered a plea of nolo contendere in a court of competent jurisdiction within the immediately preceding five year period, or less than three (3) years have elapsed since the completion of the sentence received, including probation and parole, of any of the following offenses:
 - (A) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution or display of harmful material to a minor, sexual performance by a child or possession of child pornography as described in Chapter 43 of the Texas Penal Code;
 - (B) Public lewdness, indecent exposure or indecency with a child as described in Chapter 21 of the Texas Penal Code;
 - (C) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;

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- (D) Incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of the Texas Penal Code;
 - (E) Gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling devices or equipment, or possession of gambling paraphernalia as described in Chapter 47 of the Texas Penal Code;
 - (F) Forgery, credit card abuse, commercial bribery as described in Chapter 32 of the Texas Penal Code;
 - (G) A criminal offense as described in Chapter 481, subchapter D of the Health and Safety Code; or
 - (H) A criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses; or any other offense in another state that if committed in this state would have been punishable as one or more of the heretofore mentioned offenses.
- (2) The applicant has allowed acts of unlawful sexual misconduct or other unlawful activities to be committed in connection with previous business operations;
 - (3) The chief of police shall defer determination whether to issue an SOBP until final disposition of charges of any of the above listed crimes, which are pending or arise during the investigation period;
 - (4) The enterprise, as proposed, does not meet all of the requirements of these regulations or is otherwise prohibited by law.
 - (5) The applicant has knowingly made a misleading statement of a material fact by omitting or falsifying information in the application for the permit;
 - (6) The applicant, if an individual, is under eighteen (18) years of age;
 - (7) The operator has had a permit revoked for the same enterprise within the 180 day period immediately preceding the date the application was filed;
 - (8) An applicant or an applicant's spouse is delinquent in the payment to the city of taxes, fees, utilities, fines or penalties assessed or imposed in relation to a sexually oriented business;

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- (9) An applicant shares a residence with a person who has been denied an SOBP within the preceding twelve (12) months or with a person whose SOBP has been revoked within the preceding twelve (12) months;
- (10) The application or renewal fee required by these regulations has not been paid; or
- (11) An applicant has been employed in a managerial capacity of an enterprise within the preceding twelve (12) months and, due to failure of the applicant to effectively operate or manage that enterprise in a peaceful and law abiding manner, action by law enforcement officers was required to keep the peace or restrict unlawful activity at that enterprise during that period.

(b) The SOBP shall be valid for one year from the date issued unless revoked or suspended under the provisions of Section 4.618, the enterprise is sold or transferred or the permit is cancelled by written request of the applicant.

(c) In the event that the chief of police determines that an applicant is not eligible for a permit, the applicant shall be given notice in writing of the reasons for that determination.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-39)

Sec. 4.618 Permit Revocation or Suspension

(a) Authority; Reasons. The chief of police shall have the authority and power to revoke a permit for any one or more of the following reasons:

- (1) The owner or operator of the enterprise knowingly allowed a person under nineteen (19) years of age to enter the establishment;
- (2) Three (3) or more cumulative violations of any of the offenses contained in Section 4.617(a)(1) or other violation of these regulations have occurred on the premises of the enterprise within a period of eight (8) months and the owner or operator failed to make reasonable effort to prevent the occurrences of such violations;
- (3) The applicant provided materially false, fraudulent or untruthful information on the original or renewal application form;
- (4) The enterprise has been closed for business for a period of thirty (30) consecutive days, unless such closure is due to circumstances beyond the control of the owner and the owner is proceeding with the due diligence to reopen the establishment;

(5) The SOBP should not have been issued pursuant to these regulations.

(b) Determination of Probable Cause. Prior to revocation or suspension of an SOBP, the chief of police shall determine whether probable cause for such action exists. If probable cause is found, the chief of police shall forward to the applicant or applicant's designated agent written notice of revocation or suspension. The notice shall contain the reasons for the action.

(c) Hearing. The applicant or the applicant's designated agent shall have the opportunity to appear before a hearing official appointed by the city council. The hearing shall be held at a time and place designated in the notice. The hearing official shall not have participated in any investigation of the alleged grounds for the revocation. The hearing shall be held within fourteen (14) days of the date of notice and each party shall be provided an opportunity to present, evidence, cross examine witnesses and be represented by legal counsel.

(d) Notice of Revocation. Upon a finding the SOBP should be revoked, the hearing examiner shall issue a written order revoking the permit effective the third day after written notice is mailed or otherwise provided to the operator.

(e) Suspension in Lieu of Revocation. If the hearing examiner determines, based upon the nature of the violations, that a suspension in lieu of revocation is appropriate, operation of the permit may be suspended for a period of time not to exceed two (2) months. The hearing examiner shall issue a written order suspending their permit effective the third day after written notice is mailed or otherwise provided to the operator.

(f) Revocation for Violation of Subsections (a)(4) or (5). Where subsection (a)(4) or (5) above has been violated, only revocation of the SOBP shall be available.

(g) Exceptions to Hearing Provisions. The revocation or suspension action of the chief of police shall be subject to the hearing provisions of these regulations except:

- (1) The chief of police may take immediate action with respect to an SOBP where there is necessity for immediate action to protect the public from injury or imminent danger; or
- (2) When an SOBP was issued based on a material misrepresentation in the application and but for the material misrepresentation the permit would not have been issued.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-40)

Sec. 4.619 Individual Employment Permit Required

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(a) It shall be unlawful for any person to be employed by an enterprise as a server, live exhibitionist, host or hostess, cashier, security person, operator or manager without an SOEP pursuant to the provisions of this article. The SOEP shall be available for inspection by the chief of police or other enforcement authorities at the holder's place of employment when the holder is on the premises in the capacity of employee.

(b) In any prosecution under subsection (a) above, it shall be presumed that there was no SOEP at the time of the alleged offense if it was not available for inspection as provided in this article.

(c) An SOEP does not authorize the operation of an enterprise. Any person obtaining an SOEP who desires to operate an enterprise must separately apply for an SOBP under Section 4.613, but is required to pay only one fee, whichever fee is higher at the time of application.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-51)

Sec. 4.620 Individual Employment Permit Requirements

(a) Application; Fee. Any person seeking employment as a server, live exhibitionist, host or hostess, cashier, security person, operator or manager of an enterprise must obtain an SOEP by application to the chief of police. A fee to defray the cost of investigation shall accompany the submission of each application. The amount of the fee shall be determined by the city council. The fee shall be paid in the form of cash, money order, cashier or bank check.

(b) Required Information. Each SOEP application shall include the following information:

- (1) The full legal name, professional or performing names and any other names used by the applicant, applicant's Social Security number and driver's license or Texas Identification Number.
- (2) The present address and telephone number of the applicant, each residential address and the dates of residence at each address for the three (3) years immediately preceding the date of the application.
- (3) Documentation that the applicant is at least nineteen (19) years of age.
- (4) Applicant's height, eye color and natural hair color.
- (5) Two (2) photographs of the applicant taken within one month immediately preceding the date of application. The size and characteristics of the photograph shall be specified by the chief of police. One photograph shall be affixed to the permit and

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one photograph shall be retained by the chief of police. A new photograph may be required by the chief of police upon renewal of the permit.

- (6) Applicant's occupation and employment history for three (3) years immediately preceding that date of application indicating the applicable dates and addresses.
 - (7) The applicant's complete business license or permit history. This shall include any permit or license which has been issued to the applicant by any agency, board, city, county or state, or any professional or vocational license or permit which has expired or is currently in effect. This shall include any license or permit that has been denied or was issued to the applicant and subsequently revoked or suspended, and the reason for the denial, revocation or suspension.
 - (8) A statement of the applicant's criminal history which shall consist of any and all convictions and the dates and places of those convictions. The statement shall include any charges where the applicant entered a plea of nolo contendere or received deferred adjudication if probation has not been successfully completed, but shall not include traffic violations.
 - (9) The name and address of the enterprise or enterprises at which the applicant expects to be employed and the capacity in which the applicant expects to be employed.
 - (10) Other identification and information as reasonably necessary in order to confirm the validity of information provided in the application.
 - (11) The chief of police shall require the applicant to furnish fingerprints for the purpose of establishing identification.
- (c) Selling Alcoholic Beverages. If the applicant will be employed in a capacity that involves serving liquor to clients, evidence of certification through completion of a Texas Alcoholic Beverage Commission approved seller training program, under the V.T.C.A., Alcoholic Beverage Code, Section 106.14, must be obtained by the applicant prior to issuance of the permit.
- (d) Statement of Truth and Correctness. The application shall contain a statement under oath that the information provided is true and correct and that the applicant has read and understands these regulations.
- (e) Investigation. The chief of police shall have seven (7) days from the receipt of the completed application in which to investigate the application and background of the applicant. Compliance with other provisions of these regulations may from time to time require an

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extension of this investigatory period in which case an extension, reasonable under the circumstances, shall be allowed.

(f) Issuance; Factors Determining Exceptions. An SOEP shall be issued within fourteen (14) days of receipt of the complete application and the information required by these regulations, subject to subsection (e), unless:

- (1) The applicant within the immediately preceding five-year period has been convicted, entered a plea of nolo contendere or been given deferred adjudication by a court of competent jurisdiction; or less than three (3) years has elapsed since the completion of a sentence received, including probation and parole, as to any of the following offenses:
 - (A) Prostitution, promotion of prostitution, aggravated promotion of prostitution, compelling prostitution, obscenity, sale, distribution or display of harmful material to a minor, sexual performance by a child or possession of child pornography as described in Chapter 43 of the Texas Penal Code;
 - (B) Public lewdness, indecent exposure or indecency with a child as described in Chapter 21 of the Texas Penal Code;
 - (C) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code;
 - (D) Incest, solicitation of a child or harboring a runaway child as described in Chapter 25 of the Texas Penal Code;
 - (E) Gambling, gambling promotion, keeping a gambling place, communicating gambling information, possession of gambling devices or equipment, or possession of gambling paraphernalia as described in Chapter 47 of the Texas Penal Code;
 - (F) Forgery, credit card abuse, commercial bribery as described in Chapter 32 of the Texas Penal Code;
 - (G) A criminal offense as described in Chapter 481, subchapter D of the Health and Safety Code; or
 - (H) A criminal attempt, conspiracy or solicitation to commit any of the foregoing offenses or any other offense in another state that if committed in this state would have been punishable as one or more of the heretofore mentioned

offenses;

- (1) The chief of police shall defer the determination to issue an SOEP until the final disposition of charges of any of the above listed crimes which are pending or arise during the investigation period.
- (2) The applicant previously had a similar type of permit revoked for good cause within one year immediately preceding the date of the filing of the application and can show no material changes in the circumstances since the revocation;
- (3) The applicant has knowingly made a misleading statement by omitting or falsifying a material fact in the application for the SOEP; or
- (4) The applicant is under nineteen (19) years of age.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-52)

Sec. 4.621 Individual Employment Permit Revocation or Suspension

(a) Authority; Reasons. The chief of police shall have the authority and power to revoke an SOEP for any one or more of the following reasons:

- (1) The applicant provided materially false, fraudulent or untruthful information on the original or renewal application;
- (2) During the effective period of the SOEP, the applicant is convicted or enters a plea of nolo contendere to any of the violations of the Penal Code, which would have prohibited issuance;
- (3) The SOEP should not have been issued pursuant to the regulations.

(b) Determination of Probable Cause. Prior to revocation or suspension, the chief of police shall determine whether probable cause for such action exists. If probable cause is found, the chief of police shall forward to the applicant a written notice. The notice shall state the proposed action and the reasons thereof.

(c) Hearing. Subject to Section 4.607, the applicant shall have the opportunity to appear before a hearing official appointed by the city council at a time and place designated in the notice of revocation or suspension. The hearing official shall not have participated in any investigation of the grounds for the action. The hearing shall be held within fifteen (15) days of the date of notice and each party shall be provided an opportunity to present evidence, cross-examine witnesses

and be represented by legal counsel.

(d) Notice of Revocation. Upon a finding that the SOEP should be revoked, the hearing examiner shall issue a written order of revocation. The order will take effect on the third day after written notice is given to the SOEP holder.

(e) Suspension in Lieu of Revocation. If the hearing examiner determines, based upon the nature of the violations, that a suspension in lieu of revocation is appropriate, the SOEP may be suspended for a period of time not to exceed two (2) months. The hearing examiner shall issue a written order of suspension which will take effect on the third day after notice is given to the SOEP holder.

(f) Revocation for Violation of Subsections (a)(2) and (3). In cases of subsections (a)(2) and (3) above, only revocation shall be available.

(g) Exceptions to Hearing Provisions. The revocation or suspension action of the chief of police shall be subject to the hearing provisions of these regulations except:

- (1) The chief of police may take immediate action with respect to an SOEP where there is urgency of immediate action to protect the public from injury or imminent danger;
or
- (2) When an SOEP was issued based on a material misrepresentation in the application and, but for the material misrepresentation, the SOEP would not have been issued.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-53)

Sec. 4.622 Individual Employment Permit Operative Date

All persons operating an enterprise or employed in the capacities set out in Section 4.620 at the time these regulations become effective shall submit the appropriate application for a permit within forty-five (45) days of the effective date of these regulations. (1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-54)

Sec. 4.623 Enterprise Operating Instructions

No person, association, partnership or corporation shall engage in, conduct, carry on or conduct the operation of an enterprise unless each and all of the following requirements are met:

- (1) Each person employed or acting as a server, dancer, model, cashier, host or hostess, security person, operator or manager of an enterprise shall have a valid SOEP issued

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pursuant to the provisions of these regulations. It shall be a violation of these regulations for any owner, operator, responsible managing employee, manager or permittee in charge of or in control of an enterprise to employ or allow any person to act in the restricted capacities without valid unrevoked SOEP available on the premises for inspection.

- (2) It shall be unlawful for any employee, owner, operator, responsible managing employee, manager or permittee of an enterprise to allow any person below the age of eighteen (18) years upon the premises or within the confines of the enterprise.
- (3) It shall be unlawful for any employee to have physical contact with the specified anatomical areas of the other employees or patrons on the premises of the enterprise.
- (4) Any person performing or who is present in a state of nudity must do so at least six (6) feet from the nearest patron and on a stage at least eighteen (18) inches above floor level.
- (5) Any location within the enterprise regularly used for the purpose of live exhibitions while the performers are in state of nudity must have clear indications of the six feet barrier zone. The absence of the demarcation will create presumption that there have been violations of these regulations during performances in the unmarked area.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-65)

Sec. 4.624 Attire and Conduct

Any person who engages in or employs another person to engage in, or permittee or agent who causes or allows any person to engage in any of the following acts in a permitted premises is in violation of these regulations:

- (1) To sell or serve alcoholic beverages while such seller or server is in a state of nudity.
- (2) To mingle with the patrons of the enterprise as a host or hostess, or in a similar capacity, in a state of nudity.
- (3) To perform, whether clothed or in a state of nudity, acts or acts which simulate sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any public sexual acts which are prohibited by law.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-66)

Sec. 4.625 Additional Regulations for Adult Motels

(a) Evidence that a sleeping room in a hotel, motel or similar commercial establishment has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in these regulations.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel or similar commercial establishment that does not have a sexually oriented business permit, that person rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) above, the terms "rent" or "subrent" means the act of allowing a room to be occupied for any form of consideration.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-67)

Sec. 4.626 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos

A person who operates and causes to be operated an enterprise other than an adult motel which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space a film, video cassette or other visual reproduction which depicts specified sexual activities or specified anatomical areas shall comply to the following requirements:

- (1) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises, excluding restrooms, to which any patron is allowed access for any purpose.
- (2) If the premises has two (2) or more managers' stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which a patron is allowed access for any purposes, excluding restrooms, from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
- (3) At least one employee shall be on duty and situated in each manager's station at all times that any patron is present inside the premises.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-68)

Sec. 4.627 Additional Regulations for Escort Agencies

(a) An escort agency shall not employ any person under eighteen (18) years of age.

(b) A person violates these regulations if he acts as an escort for any person under the age of eighteen (18) years.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-69)

Sec. 4.628 Additional Regulations for Nude Model Studios

(a) A person violates these regulations by appearing in a state of nudity or knowingly allowing another person to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.

(b) A nude model studio shall not place or allow a bed, sofa or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-70)

Sec. 4.629 Persons Younger Than Eighteen Prohibited From Entry

(a) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an enterprise at any time that the enterprise is open for business.

(b) An attendant shall be stationed at each public entrance to the enterprise at all times during the enterprise's business hours. The attendant shall not allow any person under the age of eighteen (18) years of age to enter the enterprise. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless the attendant asked for and was furnished:

- (1) A valid operator's, commercial operator's or chauffeur's driver license;
- (2) A valid personal identification certificate issued by the Texas Department of Public Safety reflecting that such person is eighteen (18) years of age or older.

(1965 Code of Ordinances, Chapter 16 3/4, Article II, Section 16 3/4-71)

Sec. 4.630 Regulations Pertaining to Sexually Explicit Books, Films or Videos in Bookstores or Video Stores

(a) An establishment that as one of its business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, photographs, films, motion

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pictures, video cassettes or video reproductions, slides or other visual representations that depict or describe specified sexual activities or specified anatomical areas as defined in Section 4.603.

- (2) Instruments, devices or paraphernalia that are designed for the use in connection with specified sexual activities as defined in Section 4.603;

shall keep all such items in an area that is not accessible or viewable by the general public except that any customers that request such items and provided such customers are over the age of 18, and:

- (1) It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be in such non accessible or viewable area at any time that the enterprise is open for business.
- (2) An attendant shall be stationed at each entrance to the non accessible or viewable area at all times during the enterprise's business hours. The attendant shall not allow any person under the age of eighteen (18) years of age to enter the enterprise. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless the attendant asked for and was furnished:
 - (A) A valid operator's, commercial operator's or chauffeur's driver license;
 - (B) A valid personal identification certificate issued by the Texas Department of Public Safety reflecting that such person is eighteen (18) years of age or older.

- (b) This section shall only apply to bookstores and video stores as defined in Section 4.603.

(Ordinance 1814 adopted 4/9/98)

ARTICLE 4.700 TAXICABS^{*(7)}

Sec. 4.701 Definitions

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them.

Driver. Shall mean the person actually driving the taxicab.

Operate a Taxicab. Shall mean the driving of a vehicle so marked as to indicate that it is a
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taxicab on any street in the city, and shall also mean the driving of any vehicle containing a passenger over any street for any monetary fare, unless such vehicle is being operated pursuant to a franchise or permit issued by the city or franchise or permit issued by the Railroad Commission of the State of Texas, or any permission duly granted by the city council or is a chartered bus carrying more than twelve (12) passengers, or is an ambulance.

Operator. Shall mean the person, firm or corporation to whom a certificate of public necessity and convenience has been issued and under which certificate the particular taxicab is being operated.

Owner. Shall mean the person, firm or corporation to whom a certificate of public necessity and convenience for the operation of taxicabs has been issued.

Street. Shall mean and include any street, alley, lane, public place or highway within the city.

Taxicab. Shall mean and include every vehicle used for transportation of passengers over the streets of the city with the following exceptions, to-wit:

- (1) A vehicle being operated pursuant to a franchise or permit issued by the city or pursuant to a franchise or permit legally issued by the Railroad Commission of the State of Texas, or pursuant to permission duly granted by proper authority of the city for a vehicle to operate over a regular route upon a set schedule, or pursuant to any permission duly granted by the city council or a vehicle being operated as a chartered bus under a contract to carry twelve (12) or more passengers;
- (2) Vehicles being used as ambulances; and
- (3) Vehicles rented or leased for self-operation by the persons actually driving the same, unless such a vehicle is transporting for compensation persons other than the one who actually rented or leased the same.

(1965 Code of Ordinances, Chapter 22, Article II, Section 22-27)

Sec. 4.702 Enforcement of Article Provisions

The chief of police is charged with the duty of enforcing this article and all police officers shall promptly report to him all violations of the provisions hereof or any facts coming to their attention showing a change in the conditions existing at the time the certificate of necessity and convenience was issued to the operator thereof. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-28)

Sec. 4.703 Inspection and Maintenance of Vehicles

Before being allowed to operate upon the streets of the city, each and every taxicab shall be inspected and approved by the chief of police or his representatives. No taxicab shall be driven or operated upon the streets of the city unless the same is in safe condition and free of mechanical defects and with the brakes in excellent condition. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-29)

Sec. 4.704 Identification of Vehicles

Each and every taxicab operated upon the streets of the city shall have painted upon its rear end and both sides, in letters and numbers more than six (6) inches in height and three (3) inches in width, the trade name of the organization under whose certificate of necessity said taxicab is being operated and the number assigned to said taxicab by or under the direction of the chief of police. Such letters and numbers shall be painted on each taxicab with permanent, nonwashable paint of a color sharply contrasting to the color of the taxicab so that the same will be readily apparent, and said letters and numbers shall not at any time be covered with any substance, material or other object that would prevent the same being seen, or in any way obscure their visibility. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-30)

Sec. 4.705 Required

No person shall drive, operate, or cause to be operated, nor shall any person employ, permit or allow another to drive, operate or cause to be operated any taxicab over any street in the city for the purpose of transporting a passenger or passengers for hire, nor shall any person accept compensation for the transportation of passengers without first having obtained from the city under the provisions of this article, a certificate of necessity and convenience authorizing such operation and acts; provided that no such vehicle without such permit shall solicit or accept a passenger or passengers from any point within the city for transportation to any destination whatsoever. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-36)

Sec. 4.706 Application Contents

(a) Any person desiring a certificate of public necessity and convenience to operate taxicabs in the city shall file with the city council written application for such a certificate, and said application shall be filled out in triplicate on forms obtained from the city secretary, shall be verified under oath by the applicant, and shall give among other details the following information:

- (1) The name, age and address of the applicant, if a natural person, or if a corporation, its name, date and place of incorporation, address of its principal place of incorporation,

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- address of its principal place of business and the names of all of its officers and directors, together with their respective addresses, as well as a certified copy of the articles of incorporation; the trade name, if any, under which the applicant proposes to operate, and the address of the place or places of business from which applicant proposes to operate.
- (2) The make, type, model, capacity and condition of the taxicabs proposed to be operated, the design and color scheme of each taxicab, and the lettering and marks to be used thereon.
 - (3) The number of taxicabs for which a certificate of permit is desired.
 - (4) A full and complete statement of all of the applicant's assets and liabilities.
 - (5) A full list of any unpaid judgments of record against applicant, which said list shall include the name of the owner of the judgment, the amount of said judgment, and the address of said owner, and if said applicant be a corporation, a full list of any unpaid judgments against any of its officers and directors, which said list shall include the name of the owner of the judgment, the amount of said judgment, and the address of said owner.
 - (6) A full list of any and all items, mortgages, and other encumbrances on said taxicabs, which said list shall include the amount secured by said lien, mortgage or other encumbrances and the name and address of the holder of said lien, mortgage or other encumbrance.
 - (7) A list of all convictions of the applicant of violations of any and all federal, state or municipal laws, and if the applicant be a corporation, a list of all convictions of all officers and directors of said corporation of violations of any federal, state or municipal laws.
 - (8) Full information pertaining to the extent, quality and character of the service that applicant proposes to render.
 - (9) Facts showing the demand, need and necessity for such service.
 - (10) A full and complete statement of the experience, if any, the applicant has had in rendering such services in the city or elsewhere; and if the applicant be a corporation, a full and complete statement of the experience the officers and directors have had in rendering such services in the city or elsewhere.

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- (11) The amount applicant proposes to charge for the rendition of such services.
- (12) Any such other and additional information as may be required by the city in its discretion.

(b) In the event a certificate of necessity and convenience shall be issued by the city council to the applicant therefor, then the information contained within the application for such certificate shall be kept current at all times.

(1965 Code of Ordinances, Chapter 22, Article II, Section 22-37)

Sec. 4.707 Consideration Upon Application by City Council

After receiving any application for such a certificate of necessity and convenience, the city council shall make or cause to be made by its agents or employees, or by persons designated by it, such investigation as it may consider necessary; and the city council shall determine whether or not the public necessity and convenience require the operation of such taxicab or taxicabs and whether or not the applicant is fit and proper and qualified and able to efficiently conduct such business and render such service to the public. In determining whether or not said certificate should be issued, the city council shall consider, among other things, the following items:

- (1) Probable permanency and experience of applicant.
- (2) The financial ability of the applicant to respond in damages to claim or judgments arising by reason of injury to persons or damage to property resulting from operation of a taxicab.
- (3) The price the applicant proposes to charge.
- (4) The character and condition of the taxicabs to be used.
- (5) If said applicant be a corporation, the fitness of the officers, directors, stockholders and employees of the corporation making such application.
- (6) The character, fitness and past record of the applicant.
- (7) Any other item the city council may deem in its sole judgment pertinent to the application or applicant.

(1965 Code of Ordinances, Chapter 22, Article II, Section 22-38)

Sec. 4.708 Investigation of Applicant and Application

The evidence in any investigation, inquiry or hearing may be taken by the city council as a whole or by any councilman, councilmen, agent, agents, employee, employees, representative or representatives authorized, requested or designated to conduct such investigation, inquiry or hearing. The finding or opinion made by such person or persons authorized or instructed to conduct such investigation, inquiry or hearing shall be the finding or opinion of the city council itself when presented to the city council in open meeting and adopted and approved or confirmed by said city council in open meeting. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-39)

Sec. 4.709 Denial; Issuance

(a) If the city council finds that the public necessity and convenience do not require the operation of any additional taxicabs or that the applicant is not fit to conduct such business for any reason, or that the interest of the general public in the city will best be served by the refusal of such application or if the city council shall for any reason decide not to issue such certificate of convenience and necessity, then it shall forthwith refuse such application and no certificate shall issue to such applicant.

(b) If the city council finds that the public necessity and convenience require the operation of such taxicabs to be operated by the applicant, and that the applicant is fit and qualified, morally and financially, to conduct the business, and that the general welfare of the citizens of the city will best be served by operation of such taxicabs, and that all other requirements of this article have been fully complied with by the applicant, the city council may grant such certificate of convenience and necessity to such applicant for a period of one year only from such granting of such certificate of convenience and necessity.

(1965 Code of Ordinances, Chapter 22, Article II, Section 22-40)

Sec. 4.710 Nontransferable

No certificate of convenience or necessity issued under the terms of this article shall be transferable without the formal consent and approval of the city council after proper written application made thereto therefor. Such transferee of such certificate shall meet all of the requirements, conditions and stipulations as contained in this article as though he were the original applicant. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-41)

Sec. 4.711 Duration

The owner of any certificate of necessity and convenience issued under the terms of this article

shall be authorized to operate his taxicab business only for a term of one year from the date of the issuance of such certificate. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-42)

Sec. 4.712 Suspension

If for any reason the city council deems that the general welfare of the citizens requires such action, the best interest of the city will be served thereby, the city council may by formal action suspend for any period up to but not exceeding thirty (30) days any certificate of necessity and convenience issued by it under the terms of this article. In the event of such a suspension, then from and after the time of said suspension, and for the duration of such suspension, said certificate of necessity and convenience shall be of no force and effect and the holder thereof shall not be authorized to operate taxicabs in the city. For good cause the city council may by formal action lessen or terminate any such period of suspension. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-43)

Sec. 4.713 Revocation

If the holder of any certificate of necessity and convenience shall show by his actions that he is not a fit and proper person to operate taxicabs in the city, or if the financial position of said holder shall reach such a condition that the city council does not deem said holder able to pay in full reasonable claims for damages which might be legally established and confirmed, or if for good and sufficient reason the general welfare of the citizens of the city will best be served by such action, the city council may at any time after a hearing, revoke and cancel any certificate of necessity and convenience issued by it under the terms of this article. In the event of such revocation and cancellation said certificate shall be thereafter completely null and void and of no further force and effect. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-44)

Sec. 4.714 Hearing on Revocation

The hearing to determine whether or not to revoke any certificate of necessity and convenience shall not be held until notice thereof has been given to the holder of the certificate in question by registered mail addressed to said holder at the address shown on the records of the city and until a period of at least five (5) days has elapsed since the mailing of such notice. Such notice shall specify the time and place of the hearing and shall list the reasons why the general welfare of the city requires the revocation and cancellation of such certificate. The holder of the certificate in question shall be allowed to be present at said hearing, and shall be allowed to be represented by counsel if the holder deems the same advisable. He shall have full opportunity to disprove any and all charges and allegations set out against him or his operations in said notice. Said hearing may be conducted by the city council or any agent, employee or representative designated by it. If conducted by any agent, employee or representative, then upon approval and adoption by the

city council of findings of fact made by the person or persons conducting such hearing, said findings of fact by the city council shall be and become the findings of fact made after such a hearing show that the operator is not a fit and proper person to conduct such business, or is unable to pay in full reasonable claims for damages which might be asserted, or if for any reason the general welfare of the citizens of the city or the best interests of said city will be served best by such action, then the city council shall revoke and cancel the certificate of necessity and convenience in question, and there shall be no appeal of any nature from such action. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-45)

Sec. 4.715 Insurance Coverage Required

Upon the approval by the city council of an applicant for the issuance of a certificate of convenience and necessity for the operation of a taxicab over and across the streets of the city, and prior to the issuance of said certificate, the operator shall cause to be issued by an insurance company acceptable to the city council a policy of insurance on each and every taxicab operated or to be operated by the operator under the terms of this article with coverage on said taxicab as follows: One hundred thousand dollars (\$100,000.00) bodily injury, each person; three hundred thousand dollars (\$300,000.00) bodily injury each accident; and one hundred thousand dollars (\$100,000.00) property damage each accident, and such certificate of convenience and necessity shall not be issued unless and until said insurance policies shall be so secured and deposited with the city.

(Ordinance 1816 adopted 4/23/98)

Sec. 4.716 Number of Taxicabs; Application for Additional

The owner of any certificate of necessity and convenience issued under the terms of this article shall be authorized to operate in the city only the number of taxicabs specified on such certificate. However, if the public necessity and convenience require the operation of additional taxicabs at any time, then after formal application thereto, the city council may, after proper investigation made or caused to be made, authorize such holder to add additional taxicabs to his fleet. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-48)

Sec. 4.717 Permit-Required

It shall be unlawful for any person to drive a taxicab in the city without having first obtained a taxicab driver's permit from the chief of police. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-54)

Sec. 4.718 Same-Application, Contents

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A written application for such a permit shall be filed, accompanied by a fee as set forth in the fee schedule in the appendix of this code, upon a form obtained from the chief of police containing among other matters, the following information:

- (1) A showing of the experience of the applicant in driving motor vehicles, including public vehicles;
- (2) Whether or not the applicant has ever been convicted of a violation of any federal, state or municipal law and if so, the particulars of each violation;
- (3) Applicant's name, street address, age, sex, period of experience in operating public vehicles, telephone number, and place of residence for the three (3) years immediately preceding the date of said application;
- (4) The taxicab operator for whom said driver proposes to work, and such other additional information as the chief of police may prescribe on said form, such information to be furnished under oath of the person applying for such permit.

(Ordinance 1816 adopted 4/23/98)

Sec. 4.719 Same-Issuance; Fee; Renewal

The chief of police shall make such investigation of the applicant as he deems necessary. If after examining said application and obtaining such information as he deems advisable the chief of police is satisfied that said applicant is a fit and proper person to drive a taxicab in the city, then the chief of police shall cause to be issued to said applicant a permit to drive taxicabs in the city until the next ensuing January 1st, on which date the permit shall expire. On the next ensuing January 1st, said applicant must obtain a new permit after filling out a new application therefor and paying a fee as set forth in the fee schedule in the appendix of this code. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-56)

Sec. 4.720 Change in Employment

If during the year the holder of such taxicab driver's permit shall desire to change his employment so that he will be employed by another operator of taxicabs in the city, he must first file a written statement of such intent to change employment and obtain the written permission of the chief of police. Such permission shall not be unreasonably or arbitrarily withheld, and unless for good cause the chief of police deems it inadvisable in the public interest for such a change of employment to be made, he shall grant his permission for such a change upon payment of a fee by the permit holder as set forth in the fee schedule in the appendix of this code. Immediately after such a change has been made, all records in the police department and other departments

pertaining to such driver shall be corrected so as to show the name of his new employer. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-57)

Sec. 4.721 Disposition of Fees

The fees required by this article are intended to defray the cost of keeping the records in the police department pertaining to said taxicab drivers so that the same will be at all times up to date. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-58)

Sec. 4.722 Display Contents of Permit

The taxicab driver's permit must be prominently displayed at all times in full view of any person in the back seat of the taxicab being driven by the permittee. Said permit shall have attached to it a picture of the permittee, his name, age and such other information as may be deemed proper by the chief of police. Further, a description of the owner's license must also be attached to the taxicab in a conspicuous place where it can be seen easily by the passenger or passengers. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-59)

Sec. 4.723 Suspension or Revocation of Permit

If at any time in the opinion of the chief of police the public interest, the public safety or the general welfare of the citizens of the city will best be served by suspension or revocation of taxicab driver's permit, the chief of police shall suspend or shall cancel and revoke said driver's permit. No person whose driver's permit has been so suspended or revoked shall drive any taxicab in the city until and unless said permit shall be reinstated by the chief of police or he shall obtain a new permit. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-60)

Sec. 4.724 Change in Address

Each holder of a permit to drive a taxicab in the city shall keep the chief of police fully informed at all times as to any changes in his residence address and telephone number from those shown upon his application for such a permit. (1965 Code of Ordinances, Chapter 22, Article II, Section 22-61)

ARTICLE 4.800 TOW TRUCKS

Sec. 4.801 Definitions

The following definitions shall apply to this article:

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City Manager. The city manager of the City of Brownfield, Texas, or the person designated by the manager to act for the manager for the purposes of this article.

Nonconsent Tows. Any tow conducted without permission of, or not at the direction of the vehicle's legal or registered owner or such owner's authorized representatives within the boundaries of the city.

Owner. Any person who holds the legal title to a vehicle, or has the legal right of possession of a vehicle, or legal right of control of a vehicle, or any driver who reasonably appears to have authority to operate the vehicle. This does not include any person who has gained possession of a motor vehicle only as a result of tow truck services performed.

Permit. Authorization granted by city manager for a tow truck to be used for nonconsent tows, on the city rotation list, or for consent tows from the scene of an accident or a custodial arrest.

Permit Holder. Owner of a city permitted tow truck.

Rotation List. Lists prepared in accordance with the provisions of this article, of tow trucks qualified to appear thereon to be used to remove any vehicle, including wrecked or disabled vehicles, from a public street or private property by the police department.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-76)

Sec. 4.802 Removal of Vehicles by Police Department

Notwithstanding any other provisions of this article, in any circumstance in which a vehicle or other subject is so located on a public street as to constitute a hazard or obstacle, or to interfere with traffic, or in the event a stolen vehicle is found, or in any other circumstances in which a police officer in the course of his duty directs the removal of a vehicle from or to any location, any police officer may require its removal at the owner's expense by any practicable means to include but not be limited to use of a tow truck selected by the use of the rotation list. (1965 Code of Ordinances, Chapter 22, Article III, Section 22-77)

Sec. 4.803 Permits; Applications and Fees

- (a) A city tow truck permit shall entitle the permit holder to use the permitted tow truck to:
- (1) Perform nonconsent tows within the city consistent with state law;
 - (2) Perform consent tows from the scene of an accident or a custodial arrest;

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(3) Perform tows at the direction of the city from the rotation lists.

(b) Each tow truck shall obtain a permit from the city manager. There shall be an administrative fee as set forth in the fee schedule in the appendix of this code for the issuance of each permit to each tow truck company.

(c) An applicant for a permit shall submit, on a form provided by the city, a verified application containing or accompanied by the following:

- (1) The true name, address and telephone number of the person that owns the tow truck proposed to be used for police department hauls;
- (2) The location of the tow truck applicant's business;
- (3) The names of the persons who will operate the tow truck on rotation list calls;
- (4) A certification that the owner and the tow truck is in compliance with all Texas Railroad Commission rules and regulations as evidenced by possession of a valid Railroad Commission Cab Card;
- (5) A certificate of public liability and property damage insurance issued by a casualty company authorized to do business in the State of Texas, in the standard form approved by the State Board of Insurance, containing a provision that at least ten (10) days prior notice of cancellation of said insurance shall be given to the city manager by the insurance company, and providing that the amount of coverage shall comply with the limits established by state regulations;
- (6) Copies of all permits required by any agency of the State of Texas.

(d) No permit shall be issued to any applicant unless the applicant's vehicle depository is wholly or partially located within the incorporated limits of the city or its extraterritorial jurisdiction.

(e) The permit, when granted shall be kept in the tow truck permitted.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-78)

Sec. 4.804 Tow Truck Requirements

All city permitted tow trucks shall in addition to the state's tow truck standards, meet the following minimum requirements:

- (1) Have at least three-fourths (3/4) ton (minimum gross vehicle weight) in capacity as reflected on the manufacturer's certificate. If the vehicle does not have a manufacturer's certificate, then the gross vehicle weight shall be determined by a testing procedure approved by the city manager. All such vehicles shall be equipped with booster brakes or air brakes.
- (2) Shall be in such condition that it can safely and reliably be used as a tow truck.
- (3) Each permit holder shall own and have access to one dolly; provided however, that any permit holder with more than one permit shall have one dolly for every two (2) tow trucks on the rotation list.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-79)

Sec. 4.805 Insurance and Expiration of Permits

- (a) The city manager shall issue a permit for all tow trucks so complying with the provisions of this article upon proper application being made therefor unless legal grounds exist for denying such a permit.
- (b) Each permit shall expire at midnight on the first January 31 after issuance and will be renewable only upon compliance with the provisions of this article and any other applicable laws, ordinances or regulations that shall be in effect at the time of the renewal application.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-80)

Sec. 4.806 Inspection of Tow Truck Equipment and Storage Facilities Used in the Tow Truck Business

Any permit holder or applicant by virtue of making application, therefor agrees to permit during normal business hours the inspection of tow trucks, tow truck equipment and storage facilities. This authority shall be cumulative of any other authority held by the chief of police, other law enforcement officials or other legally authorized public officials. Each permit holder on the rotation list shall enter into an agreement as authorized from time to time by city council. (1965 Code of Ordinances, Chapter 22, Article III, Section 22-81)

Sec. 4.807 Police Rotation List

- (a) The city manager shall establish and maintain the rotation lists.

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(b) The lists shall contain the names of all permit holders qualified and requesting to be on such lists.

(c) A permit holder is qualified to be on such list if the permit holder maintains:

- (1) At least one permitted tow truck required to be on such lists; and
- (2) A twenty-four hour tow truck service and has not more than two (2) telephone numbers.

(d) When the police officer investigating a collision determines that a vehicle involved in a collision is unable to safely proceed under its own power, or when the police officer determines that the owner involved in a collision is physically unable to safely move the vehicle to a location where it will not create a traffic hazard, such officer shall request the owner to designate the tow truck service that the owner desires to move the vehicle.

- (1) Such designation by the owner will be indicated in writing on a form provided by the city and signed by the owner.
- (2) When the designation has been properly made, the police officer shall communicate the name of the designated tow truck service to the police communications center.
- (3) The police communications center shall cause the designated tow truck service to be called and directed to send to the scene of the collision a permitted tow truck.
- (4) If the designated tow truck service is not a permit holder and does not have available a permitted tow truck on the rotation list, or the tow truck service does not answer the phone, the owner will be requested to make other designation.

(e) If the owner of a vehicle involved in a collision is physically unable to designate the tow truck service desired to remove the vehicle, or the owner fails or refuses to designate one or has no preference, then the police officer shall communicate that fact immediately to the police communications center:

- (1) Such designation by the owner will be indicated in writing on a form provided by the city and signed by the owner if the owner is physically able. If not, the police officer shall indicate by notation on the form.
- (2) The police communications center shall call the tow truck next in line after the last permitted tow truck so called and request the permit holder to tow the vehicle from the scene of the collision. If the permit holder does not answer the phone or cannot

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provide a tow truck permitted to him, the next permit holder on the list shall be called. The permit holder may use any tow truck permitted under the permit holder's name to make the call.

(3) No person shall tow, carry or transport a motor vehicle under the direction or authority of a police officer unless a tow slip has been issued to the driver of the tow truck by the police officer. Such tow truck slip shall be filled out by the police officer on a form designated by the city. The tow truck slip shall contain the following information:

- (A) A complete description of the vehicle to be towed, including the license plate number and the vehicle identification number;
- (B) Any visible damage to the inside or outside of the vehicle;
- (C) Any personal property contained within the vehicle which is visible from outside that vehicle;
- (D) Any visible missing parts or paraphernalia;
- (E) The location from which the vehicle is being towed;
- (F) The date and time the vehicle is picked up by the tow truck;
- (G) The reason the vehicle is being towed;
- (H) The location to which the vehicle is to be towed;
- (I) The towing and storage fee and fee schedule;
- (J) The permit number of the tow truck being used for the tow;
- (K) The signature and employee number of the police officer authorizing the tow;
- (L) The signature and tow truck license number of the tow truck driver.

(f) If the permit holder after the arrival at the scene determines in conjunction with the police officer in charge that assistance is needed, then the permit holder shall arrange for such assistance within a reasonable time.

(g) Any permit holder selected shall deliver a tow truck to the scene within twenty (20)

minutes of notification.

(h) The fees as set forth in the fee schedule in the appendix of this code may be charged by permit holders under this article for the use of the tow truck designated and no additional charges may be made.

(i) The fee when the vehicle is lawfully hooked up but not towed from the scene is one-half (1/2) the regular towing fee.

(j) No fee shall be charged for towing any vehicle under direction or authority of a city peace officer unless the tow truck driver obtained a completed tow slip.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-82)

Sec. 4.808 Police Officers Not to Influence Selection of Tow Truck Service

It shall be unlawful for a police officer investigating or present at the scene of any wreck or collision to directly or indirectly recommend to any person the name of any tow truck service; nor shall any such police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a tow truck. (1965 Code of Ordinances, Chapter 22, Article III, Section 22-83)

Sec. 4.809 Soliciting Tow Truck Business on City Streets Prohibited

(a) A person commits an offense if he intentionally or knowingly solicits a tow in any manner, directly or indirectly, on the streets of the city involving any vehicle that is wrecked on a public street. This prohibition applies regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading, selling or purchasing such vehicle.

(b) In any prosecution for a violation of this article, proof that the tow truck was present at the scene of an accident shall constitute prima facie evidence that such permit holder or the tow truck driver was operating or causing to be operated the tow truck to solicit business, but the person charged shall have the right to introduce evidence to prove that the vehicle owner requested a tow truck to come to the scene or that a police officer requested the tow truck for the vehicle owner.

(c) It shall be an affirmative defense that the vehicle was not disabled as a result of a collision.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-84)

Sec. 4.810 Pounds, Hauls and Impounded Vehicles

- (a) If an owner refuses to designate a permitted tow truck, the city shall utilize the rotation list for pound calls or hauls resulting from vehicles being towed by the police article.
- (b) Any police officer may for lawful purpose direct that any vehicles shall be taken to automobile impoundment facilities owned or used by the city. Such facilities, whether at one or more locations, are hereinafter referred to as the city pound.
- (c) Whenever it becomes necessary under this article for the permit holder to disassemble parts to a vehicle in order to tow such vehicle, the permit holder shall reassemble such parts upon reaching the city pound.
- (d) No permit holder under this article shall have the owner of an impounded vehicle sign a release from liability or damage until the owner has inspected the vehicle. Any such release shall contain a notation for which the permit holder is alleged to be liable by the owner of the vehicle. If there is any such enumeration of alleged damages, then the release shall be a full release except as to the specifically enumerated damages. The release shall be signed by the owner of the vehicle and a representative of the permit holder.
- (e) No permit holder shall assert a lien on personal effects within a vehicle. Personal effects shall include such items as clothing, toilet articles, animals and purses, but shall not include tools.
- (f) Each permit holder and tow truck business shall clearly post and make available procedures to release automobiles between 8:00 a.m. and 9:00 a.m. each day of the week, in addition to the permit holder's regular business hours.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-85)

Sec. 4.811 Duties of Permit Holders on Rotation List

The duty to provide safe and prompt tow truck service upon call includes but is not limited to, the following specific duties:

- (1) Upon arrival at the scene of a collision within the incorporated limits of the city, permit holder personnel shall take directions from the police officer investigating that collision.
- (2) Permit holder personnel who haul any vehicle from the scene of a collision within the incorporated limits of the city shall remove the debris of the collision from the public

streets. This duty specifically includes removal of broken glass and metal fragments from the street and the removal of any load of any vehicle from the traveled portion of the street, so as to eliminate any hazard to vehicular traffic. This does not include the responsibility to unload cargo from a wrecked vehicle in order to permit hauling. Such debris should be disposed of in a manner which will keep it out of gutters, storm sewers and streams, public rights-of-way and property not belonging to the tow truck business without consent of the property owner. The officer on the scene of the accident may provide assistance in locating a place for disposal of such debris.

- (3) No permit holder shall store any vehicle or tow trucks on the public streets or right-of-way. Permit holders will use reasonable care in the storage of property not belonging to said permit holders so as to minimize the risk of theft or damage. If any damaged or inoperable vehicle is found upon the public right-of-way within a reasonable distance of an automobile repair shop and police records show that such vehicle was taken to that place within thirty (30) days as a result of a collision, this shall be prima facie proof that the vehicle is illegally stored.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-86)

Sec. 4.812 Removal of Vehicles From Private Property; Abandoned Vehicles

(a) A person commits an offense if the person removes a vehicle from private property without express written or verbal consent of the owner of the vehicle and does not notify the city police article within one hour of such removal. The information to be provided in such notification shall include:

- (1) The date, time and location of the removal;
- (2) The physical description and license or registration number of the vehicle;
- (3) The name of the permit holder which performs the removal; and
- (4) The storage location of the vehicle.

(b) Nothing in this article shall be construed to authorize a nonconsent tow except where permitted by state law.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-87)

Sec. 4.813 Uses of Tow Truck Without City Permit Prohibited

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- (a) A person commits an offense if the person owns or operates a tow truck which performs a nonconsent tow within the city without a city permit.
- (b) A person commits an offense if the person owns or operates a tow truck which performs a tow at the scene of an accident or a custodial arrest on a public street or right-of-way without a city permit.
- (c) It shall be an affirmative defense to prosecution under any provision of this article that the tow truck is owned by the vehicle owner of the vehicle being towed, carried or otherwise transported by the tow truck.
- (d) It shall also be an affirmative defense to prosecution under any provision of this article that regulates tow trucks that the vehicle being towed, carried or otherwise transported by the tow truck was originally picked up or loaded onto the tow truck at a specific location outside the city.
- (e) Additionally, it shall be an affirmative defense to prosecution under this article that the motor vehicle was being towed by the tow truck pursuant to a request by the lienholder of the motor vehicle, and that the tow truck was incidental to a lawful repossession of the vehicle, and that the tow truck driver has complied with all requirements of this article which would be applicable if the lienholder were the vehicle owner of the vehicle being towed.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-88)

Sec. 4.814 Administrative Disposition of Violations

The city manager shall have, as to the holder or applicant of any permit or permits, the duty and authority to enforce the provisions of this article by administrative action in accordance with the principles and procedures set forth hereinafter:

- (1) The properly and safe functioning of the tow truck business has critical impact on the health, safety and welfare of the public, involving use of the public streets of the city, often in circumstances necessitating prompt removal of dangerous obstructions to traffic on said streets; therefore, the privilege of any person to engage in the tow truck business in the city shall be subject to strict regulations in order to protect the public.
- (2) For purposes of invoking any administrative remedy against a permit holder, the act or omission of any agent or employee of said permit holder shall be considered to be the acts or omission of said permit holder.
- (3) Administrative remedies that the manager may employ to enforce the provisions of this article include but are not limited to:

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- (A) Suspension or revocation of any or all permits; this power includes the authority to remove or cause to be removed any sticker or other evidence of a permit from tow truck or tow trucks;
 - (B) Removal of a permit holder from the rotation list.
- (4) Grounds for suspension of any or all permits include driving a tow truck to the scene of a collision in response to a call by any person for a tow truck, or towing a vehicle with a tow truck when the tow truck, the tow truck driver, or the permit holder does not meet all the following conditions as applicable:
- (A) Is in a condition that it cannot safely tow a vehicle;
 - (B) Is not then covered by insurance as required in this article;
 - (C) Does not then meet all requirements for a permit;
 - (D) Failure to meet at all times all of the requirements for a permit promulgated by the city or the State of Texas or of any agency of the State of Texas;
 - (E) Failure to maintain at all times at least one tow truck in such condition that it meets the requirements for a permit and for eligibility to be on the rotation list;
 - (F) Driving or causing to be driven to the scene of a collision in response to a call from the police department any tow truck which does not then meet the requirements of the rotation list;
 - (G) Driving any tow truck to or from the scene of a collision in a manner which endangers any person;
 - (H) Failure to arrive in response to a police call within reasonable time;
 - (I) Violation of motor vehicle or traffic laws while in scope of employment;
 - (J) Failure to report seized or abandoned vehicles;
 - (K) False statements of material fact;
 - (L) Relocation of vehicle depository or storage facility to a location that is further outside the city limits;

- (M) Repeated suspensions;
- (N) Collecting or charging any fee in excess of those set out in this article;
- (O) Violation of laws regarding removal or impounding of vehicles;
- (P) Violation of ordinances regulating tow trucks; or
- (Q) Three (3) or more violations within one year of ordinances or rules by permittee or agents or employees.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-89)

**Sec. 4.815 Procedures for Suspension or Revocation of Certificates and Permits;
Appeals**

(a) The city manager may suspend any or all permits. The reason for suspension or revocation of any permits shall be given in writing to the permit holder whose permits are being suspended within ten (10) days of such suspension. Mailing of such notice to the last known business address of said permit holders shall constitute sufficient notice. Appeals from a suspension shall be made in writing to the city council within twenty (20) days of such suspension. Written notice of the ruling of the city council shall be given to the permit holder within thirty (30) days of the suspension.

(b) Suspension of any tow truck permits may be accomplished by the city manager after a hearing. Notice of hearing, the administrative action which may be taken, and the grounds therefor shall be given to the permit holder ten (10) days prior to the hearing. Mailing of said notice shall constitute sufficient notice. Suspension of a permit shall be accomplished by a notice in writing to the permit holder which states that the suspension has occurred. Such notice shall be given within ten (10) days of such suspension.

(c) If after any permits have been suspended, the condition for which they were suspended has been corrected and proof of such correction is made to the city manager, then a new permit may be issued upon proper application, fee payment and proof of meeting all requirements thereof.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-90)

Sec. 4.816 Appeals, Grievances by Permit Holder

(a) Any person aggrieved by a decision of the city manager may appeal to the city council.

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Notice of appeal shall be in writing and filed within ten (10) days of the decision of the city manager. Such appeals shall be determined by the city council after a hearing of which person has had reasonable notice.

(b) The city council shall render a written decision within thirty (30) days of an appeal.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-91)

Sec. 4.817 Towing of Certain Illegally Parked Vehicles; Procedure for Vehicle Owners to Contest Tow; Hearings

(a) If the police department has a vehicle towed without prior notice to or consent of the owner, the police department shall notify the owner within twenty-four (24) hours by telephone call or by postcard or form letter mailed by first class mail to the last known registered owner of the motor vehicle that this vehicle has been towed and how he can reclaim it.

(b) If the owner contests the legality of the tow and desires possession of his vehicle with posting of any security, a hearing shall be set before the municipal court on its next full working day following the written request for hearing.

(c) If the owner contests the legality of the tow, the owner shall be entitled to immediate possession of his vehicle upon written request for hearing and the deposit with the municipal court of a sum sufficient to secure payment of towing and storage fees. A hearing shall then be set before the municipal court within fourteen (14) days to determine the legality of the tow.

(d) Notice of this procedure shall be provided to any person contesting the legality of a city tow. All written requests for hearing shall be on a form provided by the municipal court.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-92)

Sec. 4.818 Records Required of Rotation Tow Truck Permittees

(a) Each city permittee of a tow truck shall keep tow slips issued by city for one year from the date of the latest transaction.

(b) It shall be unlawful for any holder of a city tow truck permit to fail to keep the records as herein provided or to fail to produce any of these records for inspection and copying upon request of the city manager, or his authorized agent or representative. The failure to keep the records as herein provided or failure to produce such required records after request shall be punishable by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code. Each day for which proper records have not been kept shall be a separate offense.

(1965 Code of Ordinances, Chapter 22, Article III, Section 22-93)

ARTICLE 4.900 PRIVATE CLUBS

(a) From and after the effective date of this article, any holder of a private club registration permit operating within the corporate limits of the City of Brownfield, Texas, shall be authorized to remain open for business until 2:00 a.m. of each day.

(b) Any holder of a private club registration permit convicted of violating the terms of this article shall be guilty of a Class C misdemeanor and shall be fined in accordance with the general penalty provision set forth in Section 1.109 of this code.

(Ordinance 1803 adopted 12/19/96)

ARTICLE 4.1000 COIN-OPERATED MACHINES ^{*(8)}

Sec. 4.1001 Definitions

The following words, terms and phrases as used in this article are defined as follows:

(a) Coin-Operated Machine. Shall mean every machine or device of any kind or character which is operated by or with coins or metal slugs, tokens, currency of every kind or character or checks. "Music coin-operated machines," "skill or pleasure coin-operated machines" and "game of chance coin-operated machines" as those terms are hereinafter defined shall be included in such terms.

(b) Music Coin-Operated Machines. Shall mean every machine or device of any kind or character that dispenses or vends or that is used for dispensing or vending music and is operated by or with coins, metal slugs, tokens, currency of every kind or character or checks.

(c) Operator. Shall mean any person, firm, company, association or corporation which exhibits, displays or permits to be exhibited or displayed, in a place of business, any "coin-operated machine" in the city.

(d) Owner. Shall mean any person, firm, company, association, or corporation owning any "coin-operated machine" in the city.

(e) Person. Shall include any natural person, association of natural persons, trustee, receiver,

partnership, corporation, organization, or the manager, agent, servant or employee of any of them.

(f) Service Coin-Operated Machines. Shall mean every pay toilet, pay telephone, and all other machines which dispense service only and not merchandise, music, skill or pleasure.

(g) Skill or Pleasure Coin-Operated Machines. Shall mean every coin-operated machine of any kind or character whatsoever, when such machine or machines dispenses or are used or are capable of being used or operated for amusement or pleasure or when such machines are operated for the purpose of dispensing or affording skill or pleasure or for any other purpose other than the dispensing or vending of merchandise or music or service exclusively, as those terms are defined in this article.

(h) Game of Chance Coin-Operated Machines. Shall mean every coin-operated machine that does not give any economic benefit other than personal winnings or except for the advantage of skill or luck, the chance of winning is the same for all participants.

Sec. 4.1002 Occupation Tax; Amount; Registration

(a) Every owner who exhibits or displays or who permits to be exhibited or displayed in the city any coin-operated machine as defined in Section 4.1001(h), shall pay an annual occupation tax on each coin-operated machine that is hereby levied in the amount of seventy-five dollars (\$75.00).

- (1) The following tax rate schedule will be applicable to a coin-operated machine which is exhibited or displayed for commercial use within the city during any quarter of the calendar year:

| | |
|--|---------|
| First Quarter, January 1 to March 31 | \$75.00 |
| Second Quarter, April 1 to June 30 | \$56.25 |
| Third Quarter, July 1 to September 30 | \$42.20 |
| Fourth Quarter, October 1 to December 31 | \$31.65 |

- (2) All occupation taxes for coin-operated machines are payable in advance. Prior to payment of the tax every owner shall register each machine by make, model and serial number with the city secretary or designated agent.

(b) Every owner who exhibits or displays or who permits to be exhibited or displayed in the city any coin-operated machine as defined in Section 4.1001(a) through (g) shall pay an annual occupation tax on each coin-operated machine that is hereby levied in the amount of seven

dollars and fifty cents (\$7.50).

- (1) The following tax rate schedule will be applicable to a coin-operated machine which is exhibited or displayed for commercial use within the city during any quarter of the calendar year:

| | |
|--|--------|
| First Quarter, January 1 to March 31 | \$7.50 |
| Second Quarter, April 1 to June 30 | \$5.62 |
| Third Quarter, July 1 to September 30 | \$3.75 |
| Fourth Quarter, October 1 to December 31 | \$1.88 |

- (2) All occupation taxes for coin-operated machines are payable in advance. Prior to payment of the tax every owner shall register each machine by make, model and serial number with the city secretary or designated agent.

Sec. 4.1003 Exemptions From Tax

Gas meters, pay telephones, pay toilets, food vending machines, confection vending machines, beverage vending machines, merchandise vending machines and cigarette vending machines which are now subject to an occupation or gross receipts tax, stamp vending machines, and "service coin-operated machines," as the term is defined, are expressly exempt from the tax levied herein and the other provisions of this article.

Sec. 4.1004 Display and Issuance of Decal Evidencing Payment

(a) The decal issued by the city secretary to evidence payment of the tax levied herein shall be securely attached with its own adhesive to a fixed part of the coin-operated machine so as to be easily seen by the public. The decal shall be attached to the machine in a manner that will require continued application of steam and water to remove the same.

(b) During the month of December of each year, owners shall pay the occupation tax, register the machines taxed, and hereby receive a decal for each coin-operated machine to be within the city on January 1st of the following year.

Sec. 4.1005 Sealing Machine to Prevent Operations

The city secretary or authorized representative may seal any such machine upon which the tax has not been paid in a manner that will prevent further operation. The city secretary shall charge a fee as set forth in the fee schedule in the appendix of this code for the release of any machine sealed for nonpayment of tax. The fee shall be paid to the city secretary by cashier's check or

money order. It shall be unlawful to break the seal affixed in the name of the city or exhibit, display or remove from the location any machine on which the seal has been broken.

Sec. 4.1006 Article Does Not Authorize Illegal Machines

Nothing contained in this article shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table or coin-operated machine, the keeping, exhibition, operation, displaying or maintenance of which is illegal or in violation of any article of the Penal Code of this state, or the Constitution of this state.

Sec. 4.1007 Operator's Permit

(a) Game of Chance Coin-Operated Machines:

- (1) Any business which operates six (6) or more "game of chance coin-operated machines" or any business whose principal business is the operation of game of chance coin-operated machines," without regard to number, shall obtain an operator's permit from the city secretary.
- (2) The fee for registration as an operator under this section shall be as set forth in the fee schedule in the appendix of this code. The fee shall be paid to the city secretary.
- (3) Each time the location of a machine is changed, the operator shall notify the city secretary of the change by filing an amendment to the operator's permit application within ten (10) days of the change.
- (4) An application for the renewal of an operator's permit must be made to the city secretary by December 31st of each year.

(b) Skill or Pleasure Coin-Operated Machines:

- (1) Any business which operates six (6) or more "skill or pleasure coin-operated machines" or any business whose principal business is the operation of "skill or pleasure coin-operated machines," without regard to number, shall obtain an operator's permit from the city secretary.
- (2) The fee for registration as an operator under by this article shall be as set forth in the fee schedule in the appendix of this code. The fee shall be paid to the city secretary.
- (3) Each time the location of a machine is changed, the operator shall notify the city secretary of the change by filing an amendment to the operator's permit application

within ten (10) days of the change.

- (4) An application for the renewal of an operator's permit must be made to the city secretary by December 31st of each year.

Sec. 4.1008 Operator's Permit; Application

- (a) An operator's permit application may be obtained at the city secretary's office.
- (b) The applicant will be required to furnish the following information:
 - (1) The name of the business and the address of the location where the machines are to be located.
 - (2) The name of the owner of the business where the machines are to be located and his address.
 - (3) The name and address of the local agent if the operator is not a resident of the City of Brownfield.
 - (4) The maximum number of skill or pleasure coin-operated machines to be located at the business.
 - (5) The maximum number of games of chance coin-operated machines to be located at the business.
- (c) An operator's permit shall not be issued unless:
 - (1) The parking ratio of one parking space per fifty (50) square feet of gross floor area is provided on the development lot.
 - (2) The legal description of the property of the business where the machines will be located.
 - (3) The business is zoned for the operation of coin-operated machines.

Sec. 4.1009 Revocation of Operator's Permit

Any operator's permit issued under this article shall be subject to revocation by the city secretary for the following reasons:

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- (1) The correct permit fee has not been tendered to the city secretary in the case of a check or bank draft, honored with payment upon presentation.
- (2) Failure to comply with the requirements of this article.

Sec. 4.1010 Appeals

Any applicant or operator whose permit is denied or revoked pursuant to the provisions of this article may appeal such denial or revocation to the city council of the City of Brownfield.

Sec. 4.1011 Penalty for Violation

Any person found guilty of violating the provisions of this article shall be guilty of a misdemeanor and upon conviction, shall be fined in accordance with the general penalty provision set forth in Section 1.109 of this code.

(Ordinance 1815 adopted 4/9/98)

ARTICLE 4.1100 MOBILE HOME PARKS AND VACATION TRAVEL PARKS

Sec. 4.1101 Definitions

For the purpose of this article, certain terms, words and phrases shall have the meaning hereinafter ascribed thereto.

Agent. Any person authorized by the licensee of a mobile home park or vacation travel trailer park to operate or maintain such park under the provisions of this article; any person legally designated to act in the place of another person under the terms of this article including licensees, agents of licensees, or agents designated by the City of Brownfield, Texas, to act in the place of any other person authorized to act under the terms hereof.

Building Inspector. The legally designated building inspector of the City of Brownfield, Texas, or his duly authorized agent (or representative).

Certificate of Occupancy. A certificate issued by the building inspector for the use of a building, structure, and/or land for a mobile home park and/or vacation travel trailer park, when it is determined by him that the building, structure and/or land complies with the provisions of all applicable city codes, ordinances and regulations.

City. The City of Brownfield, Terry County, Texas.

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City Health Officer. The legally designated city sanitarian of the City of Brownfield, Texas, or his duly authorized representative.

City Official. The legally designated head of a city department or his duly authorized representative when acting in an official capacity.

Common Access Route. An interior street, or private way which affords the principal means of access to individual mobile home or travel trailer lots, or auxiliary buildings.

Cul-de-sac Street. A dead-end street with no outlet to a public thoroughfare, or an interior street with outlet to a public thoroughfare.

Driveway. A minor entranceway off the common access route within the park into an off-street parking area serving one or more mobile homes.

Fire Chief. The legally designated chief of the fire department of the city or his duly authorized representative.

Internal Street. Same as common access route. Cul-de-sac street is also an internal street.

License. A written license issued by the building inspector permitting a person to operate and maintain a mobile home park or vacation travel trailer park under the provisions of this article and regulations issued hereunder.

Licensee. Any person licensed to operate and maintain a mobile home park under the provisions of this article.

Mobile Home. A movable or portable dwelling constructed to be towed by a motor vehicle on its own chassis over Texas roads and highways under special permit, connected to utilities, and designated without a permanent foundation for year-round living. It may consist of one or more units that can be telescoped when towed and expanded later for additional capacity, or of two or more units separately towable but designed to be joined into one integral unit.

Mobile Home Park. A unified development of mobile home spaces arranged on a tract of land under single person ownership, meeting all requirements of this article for a mobile home park.

Mobile Home Space or Vacation Travel Trailer Space. A plot of land within a mobile home or vacation travel trailer park designated for the accommodation of a single mobile home or vacation travel trailer.

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Mobile Home or Vacation Travel Trailer Stand. A hard surfaced area of a mobile home or vacation travel trailer space that is reserved for the placement of mobile home or vacation travel trailer. Each mobile home stand shall be provided with adequate "tie-downs" to secure the super structure (mobile home or vacation travel trailer) against uplift, sliding, rotation and overturning.

Owner. Any person, firm or corporation who is the owner of a mobile home park or vacation travel trailer park which is subject to the terms of this article.

Operator. The person, or his duly authorized agent who is the holder of a license to operate a mobile home park or a vacation travel trailer park subject to the terms of this article.

Park. The reference in this article to the word "park" shall be held to include, where applicable, a mobile home park and a vacation travel trailer park.

Parking Space, Off-Street. A minimum space nine feet (9') in width by twenty feet (20') in length located within the boundary of a mobile home space or in a common parking area having unobstructed access to an internal street.

Permit. A written permit or certification issued by the building inspector permitting the construction, alteration or extension of a mobile home park under the provisions of this article and regulations issued hereunder.

Person. Any natural individual, firm, trust, partnership, association or corporation.

Plot Plan (or Site Plan). Graphic representation, drawn to a scale in a horizontal plane, delineating the outlines of the land included in the plan and all proposed use locations, accurately dimensioned, the dimensions also indicating the relation of each use to that adjoining and to the boundary of the property.

Police Chief. The legally designated chief of police department of the city or his authorized representative.

Replacement. The act of moving one mobile home from its existing stand and replacing it with another mobile home.

Service Building. A structure housing toilet, lavatory and such other facilities as may be required by this article.

Sewer Connection. The connection consisting of all pipes, fittings and appurtenances and from the drain outlet of a mobile home to the inlet of the corresponding sewer service riser pipe of the sewage system serving the mobile home park.

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Sewer Service Riser Pipe. That portion of a sewer service which extends vertically to the ground elevation and terminates at mobile home space.

Site Plan. Same as plot plan.

Space. A plot of ground within a mobile home park designed for the accommodation of one mobile home, together with such open space as required by this article. This term also shall include the terms "lot," "stand" and "site."

Tax Assessor-Collector. The legally designated tax assessor-collector of the city or his authorized representative.

Vacation Travel Trailer. A movable or portable dwelling constructed to be towed by a motor vehicle on its own chassis over Texas roads and highways, not under special permits, and designated for vacation travel by the owner or user, not in excess of thirty-five feet (35') in length.

Vacation Travel Trailer Park. A unified development of vacation travel trailer spaces arranged on a tract of land under single ownership meeting all of the requirements of this article for a vacation travel trailer park.

Water Connection. The connection consisting of all pipes, fittings and appurtenances from the water riser pipe to the water inlet pipe of the distribution system within a mobile home.

Water Riser Pipe. That portion of the private water service system serving a mobile home park which extends vertically to the ground elevation and terminates at a designated point at a mobile home space.

Zoning Ordinance. The zoning ordinance of the City of Brownfield, Texas.

Additional Definition of Mobile Home Park and Vacation Travel Trailer Park. Included within the definition of the terms mobile home park and vacation travel trailer park as used herein, is the ownership, maintenance or use of any lot, tract or parcel of land within the limits of the City of Brownfield, Texas for the purpose of owning, maintaining or using thereon one or more mobile homes or vacation travel trailers for rental purposes. The ownership, maintenance or use of more than one mobile home or vacation travel trailer on any such lot, tract or parcel of land within the city limits of the City of Brownfield, Texas, by any person (as herein defined) shall be presumed to be the ownership, maintenance or use thereof for rental purposes, the location whereof is regulated by the terms of this article.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-1)

Sec. 4.1102 Permits

(a) Permanent Residential Structures. No permit shall be issued for the construction or occupancy of a permanent residential structure in any mobile home park or vacation travel trailer park with the following exceptions:

- (1) One existing residential structure may be retained or one new residential structure may be constructed for the occupancy of the owner or operator of the park.
- (2) An existing residence may be converted to a clubhouse, community center or service building for use by the residents only of the mobile home park or vacation travel trailer park.

(b) Permit Required. It shall be unlawful for any person to construct, alter or extend any mobile home park or vacation travel trailer park within the city limits of the City of Brownfield, Texas unless he holds a valid permit issued by the building inspector in the name of such person for the specific construction, alteration or extension proposed.

(c) Application Requirements. All applications for permits shall be made upon standard forms provided by the building inspector and shall contain the following:

- (1) Name and address of the applicant.
- (2) Location and legal description of the mobile home park.
- (3) To this application shall be attached two (2) copies of a site plan with a minimum scale of one inch (1") equivalent to twenty feet (20').
- (4) One print of the plot plan is to be circulated by the building inspector to each of the city departments designated in this article for approval prior to issuing the permit. This plot plan does not replace or supersede the subarticle plat of the property required by state law to be recorded in the county records of the county in which the property is located, after review and approval of the zoning commission or other review agency as may be now or hereafter designated by ordinance or resolution of the city council of the City of Brownfield, Texas.

(d) Permit Fee. All applications to the building inspector shall be accompanied by a fee as set forth in the fee schedule in the appendix of this code.

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(e) Issuance of Permit. When upon review of the application the building inspector is satisfied that the proposed plan meets the requirements of this article, a permit shall be issued.

(f) Denial of Permit; Hearing. Any person whose application for a permit under this article has been denied, may request a hearing on the matter under the procedure provided by Section 4.1105 of this article.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2- 2)

Sec. 4.1103 Licenses

(a) License Required. It shall be unlawful for any person to operate any mobile home park or vacation travel trailer park within the city limits of the City of Brownfield, Texas, unless he holds a valid license issued annually by the building inspector in the name of such person for the specific park.

All applications for license shall be made in writing on the forms furnished by the city to the building inspector who shall issue a license upon compliance by the applicant with provisions of this article. The building inspector shall not issue a license unless the applicant is a valid holder of a certificate of occupancy. At any time a certificate of occupancy is revoked, the license is immediately and automatically void.

(b) Application of Original License. Application for the original license shall be in writing signed by the applicant, accompanied by an affidavit of the applicant as to the truth of the application and by the deposit of the license fee hereinafter provided, and shall contain:

- (1) The name and address of the applicant.
- (2) The location and legal description of the park.
- (3) A site plan of the park showing all mobile home spaces, structures, roads, walkways and other service facilities.
- (4) Before the original license is issued, the building inspector shall obtain the approval of the fire chief on the fire fighting appliances, water supply, accessways, twenty-four (24) hour telephone service or other applicable conditions as meeting fire safety requirements.

(c) Hearing Granted Applicants. Any person whose application of a license under this article has been denied may request and shall be granted a hearing on the matter before the city council under the procedure provided by Section 4.1105 of this article

(d) Application for License Renewal. Application for renewal of a license shall be made in writing by the licensee on forms furnished by the building inspector on or before December 15th each year. Such application shall contain any change in the information occurring after the original license was issued or the latest renewal granted.

Before the renewal license is issued, the building inspector shall obtain approval of the fire chief on the fire fighting appliances, water supply, accessways or other applicable conditions as meeting fire safety requirements.

(e) License Fee. All original license applications or renewals thereof shall be accompanied by a fee as provided for in the fee schedule found in the appendix of this code for each mobile home space in the mobile home park. All renewal fees shall be due on December 31st of each year.

(f) Transfer of License. Every person holding a license shall give notice in writing to the building inspector within five (5) days after having sold, transferred, given away or otherwise disposed of interest in or control of any mobile home park. Application for transfer of license shall be made within five (5) calendar days after notification of change covered in sentence one of this subsection. Within fifteen (15) calendar days thereafter, the city shall act on the application for license transfer and it shall be approved if the park is in compliance with the provisions of the article.

(g) Transfer of License Fee. All applications for license transfer shall be accompanied by a fee as set forth in the fee schedule in the appendix of this code.

(h) Violations; Notice; Suspension of License. Whenever upon inspection of any mobile home park the building inspector after consultation with the city official or officials he deems competent to judge, finds that conditions or practices exist which are in violation of any provision of this article applicable to such park, he shall give notice in writing in accordance with Section 4.1105(a) of this article, to the licensee or his agent that unless such conditions or practices are corrected within a reasonable period of time specified in such notice, the license shall be suspended. At the end of such period of time, the building inspector shall reinspect such park, requesting assistance from other city departments as may be required and if such conditions or practices have not been corrected, he shall suspend the license and give notice in writing of such suspension to the licensee or his agent. Upon receipt of notice of such suspension, licensee shall cease operation of such park except as provided in Section 4.1105 hereof.

(i) A temporary license upon written request thereof, shall be issued by the health authority for every mobile home park in existence upon the effective date of this article, permitting the mobile

home park to be operated during the period ending one hundred eighty (180) days after the effective date of this article in accordance with such conditions as the health authority may require.

(j) The term of the temporary license shall be extended upon written request for not to exceed one additional period of one hundred eighty (180) days if:

- (1) the licensee shall have filed application for a license in conformity with subsection (b), above within ninety (90) days after the effective date of this article;
- (2) the plans and specifications accompanying the application for license comply with all provisions of this article and all other applicable ordinances and statutes;
- (3) the licensee shall have diligently endeavored to make the existing mobile home park conform fully to the plans and specifications submitted with application; and
- (4) failure to make the existing mobile home park conform fully to such plans and specifications shall have been due to causes beyond the control of the licensee.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-3)

Sec. 4.1104 Inspection

(a) Inspections Required. The building inspector, the city health officer, the fire chief, the police chief and the tax assessor-collector are hereby authorized and directed to make such inspections as are necessary to determine compliance with this article.

(b) Entry on Premises. The building inspector, the city health officer, the fire chief, the police chief and the tax assessor-collector shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of the article.

(c) Inspection of Register. The building inspector, the city health officer, the fire chief, the police chief and the tax assessor-collector shall have the power and authority in discharging their official duties to inspect and register containing a record of all residents of the mobile home park or vacation travel trailer park.

(d) Duty of Occupants. It shall be the duty of every occupant of a mobile home park or vacation travel trailer park to give the licensee, his agent or authorized employee access to any part of such repairs or alterations as are necessary to effect compliance with this article.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-4)

Sec. 4.1105 Notices, Hearings and Orders

(a) Notices of Violations; Requirements of Notice. Whenever it is determined that there are grounds to believe that there has been a violation of any provisions of this article, the building inspector shall give notice of such alleged violation to the licensee or agent, as hereinafter provided. Such notice shall:

- (1) be in writing;
- (2) include a statement of the reasons for its issuance;
- (3) allow a reasonable time for the performance of the acts it requires;
- (4) be served upon the licensee or his agent; provided that such notice or order shall be deemed to have been properly served upon such licensee or agent when a copy thereof has been sent by mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this state; and
- (5) contain an outline of remedial action which if taken will effect compliance with the provisions of this article.

(b) Appeal From Denial of Permit by the Building Official. Any person affected by the refusal of the building official to issue a permit under the provisions of this article as set out in Section 4.1102 hereof, may request and shall be granted a hearing on the matter before the city council provided that such person shall file within thirty (30) days after the day the permit was refused, in the office of the building inspector a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. Upon receipt of such petition, the building inspector shall forward it to the city secretary who shall request the city council to set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given an opportunity to be heard and to show why such refusal should be modified or withdrawn.

(c) Appeal From Notice Issued by the Building Inspector. Any person affected by any notice which has been issued in connection with the enforcement of any provisions of this article applicable with the enforcement of any provisions of this article applicable to such park by the building inspector may request and shall be granted a hearing on the matter before the city council; provided that such person shall file within ten (10) days after the day the notice was served, in the office of the building inspector, a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. The filing of the request for a hearing

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shall operate as a stay of the notice and of the suspension, except in the case of an order issued under subsection (e) below. Upon receipt of such petition, the building inspector shall forward such petition to the city secretary who shall request the city council to set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.

(d) Hearing; Order. After such hearing, the city council shall issue an order in writing sustaining, modifying or withdrawing the refusal, which order shall be served as provided in subsection (a) above. Upon failure to comply with an order by the building inspector sustaining or modifying a decision thereof, the occupancy permit and the license of the park affected by the order shall be revoked.

(e) Order Without Notice. Whenever the building inspector finds that an emergency exists which requires immediate action to protect the public health or safety, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this article, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon written petition to the building inspector shall be afforded a hearing as soon as possible. The provisions of subsection (d) above shall be applicable to such hearing and the order issued thereafter.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2 -5)

Sec. 4.1106 Mobile Home Parks; Vacation Travel Trailer Parks

(a) Site Plan. The site plan shall be filed as required by Section 4.1102 of this article and shall show the following:

- (1) The area and dimensions of the tract of land with identification of location and boundaries.
- (2) The number, location and size of all mobile home spaces.
- (3) The location, width and specifications of driveways, roadways and walkways.
- (4) The location and specifications of water and sewer lines and riser pipes.
- (5) The location and details of lighting, electrical and gas systems.
- (6) The location and specifications of all buildings constructed or to be constructed

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within the park.

- (7) Existing and proposed topograph of the mobile home park.
- (8) The location of fire mains including the size, the hydrants and any other equipment which may be provided.
- (9) Such information as municipal reviewing officials may reasonably require.

A print of the site or plot plan shall be circulated to the following city departments by the building inspector, and approval obtained from them prior to the issuance of a permit; health, fire, police, electric, water, sewer, tax, building, street and sanitation.

(b) Site Requirements. Any mobile home park or vacation travel trailer park constructed after the adoption of this article, and any extension or addition to an existing mobile home park or vacation travel trailer park in the city shall be done in compliance with the following requirements:

- (1) Location. A mobile home park or vacation travel trailer park shall be constructed and operated only on sites permitted by the zoning ordinance of the City of Brownfield, Texas, and it shall be unlawful to construct or operate a mobile home park or vacation travel trailer park after the effective date of this article except that the location thereof shall be permitted by the terms of the zoning ordinance of the City of Brownfield, Texas.
- (2) Space Requirements. No mobile home park shall be constructed or operated with more than nine (9) mobile home spaces per acre of surface land; no vacation travel trailer park shall be constructed or operated with more than fifteen (15) travel trailer spaces per acre; it shall be unlawful after the effective date of this article to construct or operate a mobile home park or vacation travel trailer park except that such space requirements are met.
- (3) Land Requirements. No mobile home parks and no vacation travel trailer park shall be permitted to be constructed or operated within the limits of the City of Brownfield, Texas, except there shall be a minimum of one and twenty-five hundredths (1.25) acres of land fully improved with hard surface spaces and parking spaces as required and herein defined.
- (4) Setback and Spacing Minimum. The following setback and spacing minimum shall at all times be complied within the operation and construction of mobile home parks and vacation travel trailer parks and it shall after the effective date of this article be

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unlawful to construct or operate a mobile home park or vacation travel trailer park except that such spacing and setback requirements be met:

| Spacing | Mobile Home | Vacation Travel Trailer |
|---|--------------------|--------------------------------|
| Between mobile home structures | 10' | 10' |
| End to end parking | 10' | 6' |
| From permanent structures (excluding individual storage structures, patio roofs and carports) | 10' | 5' |
| From patio roof or carport of one mobile structure to adjacent mobile structures | 3' | 3' |
| Rear and side park property lines | 10' | 5' |

| Setbacks | Mobile Home | Vacation Travel Trailer |
|---------------------------|--------------------|--------------------------------|
| Front park property lines | 25' | 15' |
| From interior streets | 10' | 10' |
| From cul-de-sac streets | 15' | 10' |

(5) Height Regulations.

(A) The height limit for any structure intended for occupancy in the mobile home park shall be one story.

(B) The average height of the mobile home frame above the ground elevation, measured at 90 degrees to the frame, shall not exceed two feet (2').

(6) Soil and Ground Cover. Exposed ground surfaces in all parts of every mobile home park and vacation travel trailer park shall be hard surfaced, or protected with a vegetative growth that is capable of preventing soil erosion and of eliminating dust.

(7) Drainage. The ground surface in all parts of a park shall be graded and equipped to drain all surface water in a safe and efficient manner.

(8) Design and Location of Storage Facilities. Unless provided in current mobile home

models, storage facilities with a minimum capacity of one hundred twenty (120) cubic feet of storage per mobile home space shall be provided on the space or in compounds located within one hundred feet (100') of each space. Storage facilities shall be designed in a manner that will enhance the appearance of the park and shall be faced with masonry, porcelanized steel, baked enamel steel or other material equal in fire resistance, durability and appearance. Storage outside the perimeter walls of the mobile home shall be permitted only if in such facilities.

(c) Access and Traffic Circulation and Parking.

- (1) Internal streets, no-parking area signs and street name signs shall be privately owned, built and maintained.

Streets shall be designed for safe and convenient access to all spaces and to facilities for common use of park residents.

Internal streets shall be kept open and free of obstruction in order that police and fire vehicles may have access to any areas of the mobile home park. The police department shall be authorized to issue citations for the violation of the provisions hereof and to remove and impound offending vehicles.

- (2) On all sections of internal streets on which parking is prohibited under this article, the owner or agent shall erect metal signs prohibiting parking. The sign type, size, height and location shall be approved by the city inspector prior to installation.
- (3) All internal streets shall be maintained by the owner or agent free of cracks, holes and other hazards.
- (4) Internal Street Dimensions and Parking:

(A) An internal street or common access route shall be provided to each mobile home space and vacation travel trailer space. Such street shall have a minimum width of 30 feet if off-street parking is provided in the ratio of two (2) parking spaces for each mobile home space. On-street parking shall be permitted on only one side of the street. The internal streets shall be continuous and connect with other internal streets or with public streets, or shall be provided with a cul-de-sac having a minimum diameter of ninety-five feet (95'). No internal street ending in a cul-de-sac shall exceed thirty-six feet (36') in length.

(B) If no off-street parking is provided or is provided in a ratio of less than two (2) spaces for each mobile home site or vacation travel trailer site, the minimum

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street width shall be thirty-six feet (36'). All other requirements remain the same as in the preceding subsection (A) with the exception that parking will be permitted on both sides of the street.

- (5) If the park is constructed with internal streets having a width less than thirty-six feet (36') off-street parking shall be provided on each mobile home space in the ratio of two (2) parking spaces for each mobile home space. Each parking space shall be hard-surfaced with all-weather material and located to eliminate interference with access to parking areas provided for other mobile homes and for public parking in the park.
- (6) Interior streets shall intersect adjoining public streets at approximately ninety degrees and at locations which will eliminate or minimize interference with traffic on those public streets.

(d) Street Lighting.

- (1) Entrances and exits to mobile home parks and vacation travel trailer parks shall be lighted with one (1) or more luminaries (or fixtures) totaling 7700 lumens.
- (2) The interior area of the mobile home park or vacation travel trailer park shall be lighted to .5 candle average maintained. All luminaries shall be mounted fifteen feet (15') to twenty-five feet (25') above ground level.

(e) Fire Safety Standards.

- (1) Storage and Handling of Liquefied Petroleum Gases. In parks in which liquefied petroleum gases are stored and dispensed, their handling and storage shall comply with requirements of the City of Brownfield and American Insurance Association Fire Prevention Code as applicable.
- (2) Storage and Handling of Flammable Liquids. In parks in which gasoline, fuel oil or other flammable liquids are stored and/or dispensed, their handling and storage shall comply with the City of Brownfield and American Insurance Association Fire Prevention Code.
- (3) Access to Mobile Home for Fire Fighting. Approaches to all mobile homes shall be kept clear for fire fighting.
- (4) Fire Fighting Instructions. The mobile home park owner or agent shall be responsible for the instruction of his staff in the use of the fire protection equipment and in their

specific duties in the event of fire.

(5) Water Supply Facilities for Fire Department Operations.

(A) Water supply facilities for fire department operations shall be connected to the city public water supply system unless a special exception is granted by city council to use a private water supply system. If a private supply is utilized for service to the park, the private supply must be adequate both for domestic requirements and for fire fighting requirements established by the city. The adequacy of the water supply for fire fighting requirements shall be determined by the fire chief. If the mobile home park owner and agent utilize a private water supply, it shall have sufficient volume and pressure that the city water supply will not be required for fire fighting.

(B) The park owner shall provide standard City of Brownfield fire hydrants located within five hundred feet (500') of all mobile home spaces, measured along the driveways, or streets. Fire hydrants will be subject to periodic inspection by the city fire department. It shall be responsibility of the park licensee to insure that the fire hydrants in need of immediate repair shall be repaired in a satisfactory manner within forty-eight (48) hours. Nonemergency repairs shall be made within five (5) days.

(6) The mobile home park licensee or agent shall provide an adequate system of collection and safe disposal of rubbish, approved by the fire chief and the city health officer.

(7) The mobile home park licensee or agent shall be responsible for maintaining the entire area of the park free of dry brush, leaves and weeds.

(8) There shall be no storage under any mobile home within the mobile home park or vacation travel trailer space.

(f) Recreation Area. In mobile home parks of eight (8) acres or more, a landscaped recreation area or areas totaling not less than eight percent (8%) of the total mobile home site shall be provided. Such recreation area shall be provided in a central location where possible, and may be divided so as not to exceed one (1) such recreation area per five (5) acres of gross mobile home park area. Regardless of location each recreation area's smallest dimension shall be not less than fifty feet (50'). Community buildings and community use facilities, adult recreation and child play areas and swimming pools may be included in these recreation areas. This area shall be protected from traffic hazards.

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(g) Water Supply.

- (1) An accessible, adequate, safe and potable supply of water shall be provided in each mobile home park. Connection shall be provided in each mobile home park. Connection shall be made to the public supply of water unless a special exception is granted by city council to use a private water supply system. If a private supply is utilized for service to the park, the private supply shall be adequate both for domestic requirements and for fire fighting requirements established by the city.
- (2) Water Distribution System.
 - (A) The water supply system of the mobile home park shall be connected by pipes to all mobile homes, buildings and other facilities requiring water.
 - (B) All water piping, fixtures and other equipment shall be constructed and maintained in accordance with state and city regulations and requirements.
- (3) Individual water service pipes and connections shall be in accordance with requirements of the city plumbing code as applicable.

(h) Sewage Disposal. From and after the effective date of this article, the following shall apply:

- (1) General Requirements. An adequate and safe sewerage system shall be provided in all mobile home parks and travel trailer parks for conveying and disposing of all sewage. The sewer system for a mobile home park shall be constructed in accordance with the city sewerage ordinance. All proposed sewerage facilities shall be approved by the city health officer prior to construction and shall be in compliance with the requirements of the city sewerage ordinance as applicable.
- (2) Sewer Lines. All sewer lines shall be constructed and of materials in accordance with the city plumbing code, as applicable.
- (3) Individual Sewer Connections.
 - (A) Each mobile home stand shall be provided with at least four inch (4") diameter sewer riser pipe. The sewer riser pipe shall be so located on each stand that the sewer connection to the mobile home drain outlet will approximate a vertical position.
 - (B) The sewer connection to the mobile home from the sewer riser pipe and any

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other sewer connections shall be in accordance with the requirements of the city plumbing code as applicable.

- (C) All materials used for sewer connections shall be in accordance with the city plumbing code as applicable.
- (D) Provisions shall be made for plugging the sewer riser pipe when no mobile home occupies the space. Surface drainage shall be diverted away from the riser.

(i) Electrical Service. Service shall be provided throughout mobile home parks and vacation travel trailer parks and service to individual mobile homes and vacation travel trailers shall meet the requirements as set forth in the city electrical code.

(j) Natural Gas. Mobile home parks and vacation travel trailer spaces shall be provided with a natural gas hookup at least four inches (4") above the surface of the ground.

(k) Other Community Service Facilities.

(1) Barbecue Pits, Fireplaces, Stoves and Incinerators. Cooking shelters, barbecue pits, fireplaces, wood burning stoves and incinerators shall be located, constructed, maintained and used to minimize fire hazards and smoke nuisance both on the property on which used and on neighboring property. No open fire shall be permitted except in facilities provided. No open fire shall be left unattended. No fuel shall be used and no material burned which emits dense smoke or objectionable odors. All burning must be in compliance with air pollution control laws and regulations.

(2) Refuse and Garbage Handling.

(A) The storage, collection and disposal of refuse in the mobile home park and vacation travel trailer park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accident or fire hazards or air pollution. One or both of the systems described in the following subsections (B) or (C) shall be used in every park.

(B) If refuse is gathered at the individual sites, it shall be stored in flytight, watertight, rodent-proof containers which shall be located at each mobile home site. Containers for this use shall be provided in sufficient number and capacity to store properly all refuse.

(C) Centrally located refuse containers having a capacity of three cubic yards or

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larger may be provided. If provided, containers shall be designed as to prevent spillage, container deterioration, and to facilitate cleaning around them. They shall also be located in an area where it can be emptied without the garbage truck getting off of the pavement. Refuse and garbage shall be removed from the park at least twice each week.

- (D) The licensee or agent shall insure that containers at mobile home spaces are emptied regularly and maintained in a usable and sanitary condition.

(l) Insect and Rodent Control. Grounds, buildings and structures shall be maintained free of insect and rodent harborage and infestation. Extermination methods and other measures to control insects and rodents shall conform with the requirements of the city health director.

- (1) Parks shall be maintained free of accumulation of debris which may provide rodent harborage or breeding places for flies, mosquitoes and other pests.
- (2) The growth of brush, weeds and grass shall be controlled to prevent harborage of noxious insects or other pests. Parks shall be so maintained as to prevent the growth of noxious weeds detrimental to health. Open areas shall be maintained free of heavy undergrowth of any description.

(m) Fuel Supply and Storage. From and after the effective date of this article, the following shall apply:

- (1) Natural Gas System.

- (A) Natural gas piping systems shall be installed underground and maintained in accordance with applicable codes and regulations governing such systems.
- (B) Each mobile home space provided with piped gas shall have a cap on the outlet when not in use to prevent accidental discharge of gas and shall be in accordance with the city plumbing code as applicable.

- (2) Liquefied Petroleum Gas System.

- (A) Liquefied petroleum gas systems shall be installed only if an available natural gas system is more than one thousand feet (1,000') from the mobile home park. The liquefied petroleum gas system shall be maintained in accordance with the applicable codes of the city governing such systems and regulations of the Texas Railroad Commission pertaining thereto.

(n) Miscellaneous Requirements.

(1) Responsibilities of the Park Management.

- (A) All responsibilities set out elsewhere in this article.
- (B) The licensee or his agent shall operate the park in compliance with this and other applicable ordinances and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.
- (C) The licensee or agent shall notify park occupants of all applicable provisions of this article and inform them of their duties and responsibilities under this article.
- (D) The licensee or agent shall maintain a register of park occupancy which shall contain the following information:
 - (i) Name and address of park residents.
 - (ii) Mobile home registration data, including make, length, width, year of manufacture and identification number.
 - (iii) Location of each mobile home within the park by space or lot number and street address.
 - (iv) Dates of arrival and departure.
- (E) A new register shall be initiated on January first of each year, and the old register be retired but shall be retained on the premises for at least three (3) years following the retirement. Registers shall be available for inspection at all reasonable times by an official of the City of Brownfield whose duties may necessitate access to the information contained therein.

(2) Responsibilities of Park Occupants.

- (A) All responsibilities set out elsewhere in this article.
- (B) The park occupant shall comply with all requirements of this article and shall maintain his mobile home space, its facilities and equipment in good repair and in a clean and sanitary condition.

- (C) The park occupant shall be responsible for proper placement of his mobile home in its mobile home stand and proper installation of all utility connections of the park management.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-6)

Sec. 4.1107 Sanitation Requirements for Vacation Travel Trailer Parks

(a) Vacation travel trailer parks shall provide toilets, baths or showers and other sanitation facilities which shall conform to the following requirements:

- (1) The toilet and other sanitation facilities for males and females shall be either in separate buildings or shall be separated if in the same building, by a soundproof wall. Such service buildings shall be well lighted and ventilated at all times with screened openings. These services shall be maintained in clean sightly condition and kept free of any condition that could menace the health of any occupant. Service buildings shall be located not closer than five feet (5') nor farther than two hundred feet (200') from any vacation travel trailer space.
- (2) An adequate supply of hot water shall be provided at all times in any required service buildings, and for all bathing, washing, cleansing and laundry facilities.
- (3) Toilet Facilities.
 - (A) Males. Toilet facilities for males shall consist of not less than one (1) flush toilet for every fifteen (15) vacation travel trailers, one (1) urinal for every fifteen (15) vacation travel trailers, one (1) shower with individual dressing accommodations for every ten (10) vacation travel trailers.
 - (B) Females. Toilet facilities for females shall consist of not less than one (1) flush toilet for every ten (10) vacation travel trailers, one (1) shower with individual dressing accommodations for every ten (10) vacation travel trailers.

(1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-7)

Sec. 4.1108 Conflict With Other Ordinances

Whenever the standards and specifications in this article conflict with those contained in another ordinance, the most stringent or restrictive provision shall govern. (1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-8)

Sec. 4.1109 Penal Provisions

Any person violating any provision of this article within the corporate limits of the City of Brownfield, Texas, shall be guilty of a misdemeanor and upon conviction shall be fined an amount in accordance with the general penalty provision set forth in Section 1.109 of this code. Each day that such violation occurs shall be a separate offense. Prosecution or conviction under this provision shall never be a bar to any other remedy or relief for violations of this article. (1965 Code of Ordinances, Chapter 10 1/2, Section 10 1/2-9)

Sec. 4.1110 Recreational Vehicle Defined

(a) The term "recreational vehicle" shall mean a vehicle or portable structure built on a chassis and designed to be used for temporary occupancy or travel, recreational or vacation use. Said vehicles may contain plumbing, heating and electrical systems which are operated without connection to outside utilities. Recreational vehicles shall include:

- (1) Travel Trailer. A vehicular, portable structure built on a chassis and designed to be drawn by a motorized vehicle and which is designed to be used as a temporary dwelling for travel, recreational and vacation use.
- (2) Camper. A removable structure designed to be mounted on a truck chassis for use as a temporary dwelling for travel, recreational and vacation use.
- (3) Motor Home. A portable, temporary dwelling to be used for travel, recreational and vacation use constructed as an integral part of a self-propelled vehicle.
- (4) Camping Trailer. A folding structure mounted on wheels and designed for travel, recreational and vacation use.

(b) The following shall not be deemed to be recreational vehicles: Mobile homes constructed to standards established by the Federal Department of Housing and Urban Development and designed to be permanent residential structures after being properly secured and skirted.

Sec. 4.1111 Limitation of Use

(a) No recreational vehicle within the City of Brownfield may be used or occupied for more than 72 hours in any one month period unless approved as follows: The owner of a recreational vehicle may apply to the zoning board of adjustment for an extension of time as may be determined in the sound discretion of the zoning board of adjustment, but in no event to exceed six months.

Brownfield Code of Ordinances

- (b) No recreational vehicle may be attached to any external appurtenances, such as carports, cabanas or patios.
- (c) No recreational vehicle shall be occupied for commercial purposes.
- (d) This section shall not be construed as prohibiting the parking or storage of unoccupied recreational vehicles within the city.

Sec. 4.1112 Exception

Nothing in this article shall apply to a recreational vehicle legally parked in a licensed mobile home park.

Sec. 4.1113 Penalty

Any person, firm, corporation, or agent who shall violate a provision of this article or fail to comply therewith, or with any of the requirements thereof, shall be guilty of a misdemeanor punishable by a fine in accordance with the general penalty provision set forth in Section 1.109 of this code. Each day that a violation continues shall constitute a separate offense.

(Ordinance 1855 adopted 4/26/01)

Endnotes

1 (Popup - Popup)

* **State Law reference**-Emergency medical services, V.T.C.A., Health & Safety Code, Sec. 773.001 et seq.; municipal regulation, V.T.C.A., Health & Safety Code, Sec. 773.051.

2 (Popup - Popup)

* **State Law reference**-Authority of municipality to adopt fair housing ordinance, V.T.C.A., Local Government Code, Sec. 51.002.

3 (Popup - Popup)

* **State Law reference**-Oil and gas, V.T.C.A., Natural Resources Code, Ch. 51, 81, 91 et seq.; lease of municipal oil, gas or mineral land, V.T.C.A., local Government Code, Sec. 253.005; Municipal regulation of exploration and development of mineral interests, V.T.C.A., Natural Resources Code, Sec. 92.007.

4 (Popup - Popup)

* **State Law reference**-Texas Pawnshop Act, V.T.C.A., Finance Code, Ch. 371.

5 (Popup - Popup)

* **State Law reference**-Authority of municipality to license, tax, suppress, prevent, or otherwise regulate peddlers, hawkers and solicitors, V.T.C.A., Local Government Code, Sec. 215.031.

6 (Popup - Popup)

* **State law references**-Authority of municipality to regulate sexually oriented businesses, V.T.C.A., Local Government Code, ch. 243; employment harmful to children, V.T.C.A., Penal Code, sec. 43.251; sexual offenders as owners, operators, managers or employees of sexually oriented businesses, V.T.C.A., Business and Commerce Code, ch. 46.

7 (Popup - Popup)

* **State Law reference**-Authority of municipality to regulate taxicabs, V.T.C.A., Local Government Code, Sec. 214.004.

8 (Popup - Popup)

* **State Law reference**-Taxation of coin-operated machines, V.T.C.S., Article 8814.