

## CHAPTER 6

# HEALTH AND SANITATION

### ARTICLE 6.100 FOOD AND FOOD HANDLERS

#### Sec. 6.101 Sandwiches

(a) Sandwiches Dispensed From Vending Machines, Etc. Every sandwich dispensed in vending machines or sold to the public, establishments other than the place where they are prepared must be securely wrapped, packaged, sealed and labeled.

(b) Required Information. Information required by this section must be printed in type of sufficient size and prominence to be easily read under the normal conditions of sale and display. This information should be printed on the main part of the label in a color, which contrasts with its background. Legibility is required. The label must contain the following information:

- (1) The common and/or usual name of the sandwich.
- (2) The name and address of the manufacturer or distributor including zip code.
- (3) A list of all ingredients contained in the sandwich, starting with the most predominant ingredient and following with other ingredients in descending order based on the amount contained in the sandwich.
- (4) The net weight of the sandwich including bread or bun.
- (5) The date of preparation of discard shall be plainly printed on the label.

(c) Removal From Sale or Consumption. Sandwiches shall be removed from sale or consumption by humans and used as garbage after these recommended times:

- (1) Hot sandwiches (barbecue, hamburgers, etc.) shall be removed and discarded at the end of the normal business day.
- (2) Cold sandwiches (luncheon meats, beef, cheese, etc.) shall be discarded after seventy-two (72) hours from the time of preparation.

- (3) Frozen sandwiches shall be dated upon thawing for sale, if thawed prior to sale. The shelf life of frozen sandwiches shall be six (6) months maximum from the date of preparation.

(1965 Code of Ordinances, Chapter 7, Article I, Section 7-1)

#### **Sec. 6.102 Remedies**

- (a) Injunctions. The regulatory authority may seek to enjoin violations of these rules.
- (b) Penalties. Any person who violates a provision of these rules and any person who is the permit holder of or otherwise operates a food service establishment that does not comply with the requirements of these rules and any responsible officer of that permit holder or those persons shall be fined in accordance with the general penalty provision provided for in Section 1.109 of this code.

(1965 Code of Ordinances, Chapter 7, Article I, Section 7-2)

### **ARTICLE 6.200 FOOD SERVICE ESTABLISHMENTS<sup>\*(1)</sup>**

#### **Sec. 6.201 Adoption of Food Service Sanitation Code**

For the purpose of regulating food service and food service establishments, the unabridged form of the Texas Department of Health, Division of Food and Drugs, Food Service Sanitation Manual Including Rules on Food Service Sanitation, adopted, 1978 (except rule .011 which is hereby deleted), copies of which are on file in office of the city secretary, is hereby adopted and made a part of this article as if fully set out herein, and the provisions thereof shall govern all matters covered therein within the City of Brownfield except those provisions which may be in conflict with other provisions of this article or state law; provided, however, that such ordinance shall be amended by the following deletions and additions. (1965 Code of Ordinances, Chapter 7, Article II, Section 7-16)

#### **Sec. 6.202 Definitions**

The definitions; the inspection of food service establishments; the issuance, suspension and revocation of permits to operate food service establishments; the prohibiting of the sale of unsound or mislabeled food or drink; and the enforcement of this article shall be regulated in accordance with the Texas Department of Health, Division of Food and Drugs' Rules on Food Service Sanitation 301.73.11.001-010, three (3) certified copies of which shall be on file in the

office of the city secretary; provided, that the words "municipality of Brownfield" in this article shall be understood to refer to city council of the City of Brownfield and the words "regulatory authority" shall be understood to refer to South Plains Health Unit. (1965 Code of Ordinances, Chapter 7, Article II, Section 7-17)

**Sec. 6.203     Violations**

Violations of the Rules on Food Service Sanitation are subject to the penalties and remedies listed in the compliance procedures herein adopted. (1965 Code of Ordinances, Chapter 7, Article II, Section 7-18)

**Sec. 6.204     Permits, Licenses or Certificates**

(a) Generally. No person shall operate a food service establishment who does not have a valid permit, license or certificate issued to him by the regulatory authority. Only a person who complies with the requirements of these rules shall be entitled to receive or retain such a permit, license or certificate. Permits, licenses or certificates are not transferable. A valid permit, license or certificate shall be posted in every food service establishment.

(b) Issuance.

- (1) Any person desiring to operate a food service establishment shall make written application for a permit, license or certificate on forms provided by the regulatory authority. Such application shall include the name and address of each applicant, the location and type of the proposed food service establishment and the signature of each applicant.
- (2) Prior to approval of an application for a permit, license or certificate the regulatory authority shall inspect the proposed food service establishment to determine compliance with the requirement of these rules.
- (3) The regulatory authority shall issue a permit, license or certificate to the applicant if its inspection reveals that the proposed food service establishment complies with the requirements of these rules.

(c) Suspension. The regulatory authority may, without warning, notice or hearing, suspend any permit, license or certificate to operate a food service establishment if the holder of the permit, license or certificate does not comply with the requirements of these rules, or if the operation of the establishment does not comply with the requirements of these rules, or if the operation of the food service establishment otherwise constitutes a substantial hazard to public health. Suspension is effective upon service of the notice required by the following paragraph. When a

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permit, license or certificate is suspended, the holder, of the permit, license or certificate shall be afforded an opportunity for a hearing within twenty (20) days of receipt of a request for a hearing:

Whenever a permit, license or certificate is suspended, the holder of the permit, license or certificate or the person in charge shall be notified in writing that the permit, license or certificate is, upon service of the notice, immediately suspended and that an opportunity for a hearing will be provided if a written request for a hearing is filed with the regulatory authority by the holder of the permit, license or certificate within ten (10) days. If no written request for hearing is filed within ten (10) days, the suspension is sustained. The regulatory authority may end the suspension at any time if reasons for suspension no longer exist.

(d) Revocation. The regulatory authority may, after providing opportunity for a hearing, revoke a permit, license or certificate for serious or repeated violations of any of the requirements of these rules or for interference with the regulatory authority in the performance of its duties. Prior to revocation, the regulatory authority shall notify the holder of the permit, license or certificate, or the person in charge, in writing of the reason for which the permit, license or certificate is subject to revocation and that the permit, license or certificate shall be revoked at the end of the ten (10) days following service of such notice unless a written request for a hearing is filed with the regulatory authority by the holder of the permit, license or certificate within such ten-day period. If no request for hearing is filed within the ten-day period, the revocation of the permit; license or certificate becomes final.

(e) Service of Notices. A notice provided for in these rules is properly served when it is delivered to the holder of the permit, license or certificate, or the person in charge, or when it is sent by registered or certified mail, return receipt requested, to the last known address of the holder of the permit, license or certificate. A copy of the notice shall be filed in the records of the regulatory authority.

(f) Hearings. The hearings provided for in these rules shall be conducted by the regulatory authority at a time and place designated by it. Based upon the recorded evidence of such hearing, the regulatory authority shall make a final finding and shall sustain, modify or rescind any notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the holder of the permit, license or certificate by the regulatory authority.

(g) Application After Revocation. Whenever a revocation of a permit, license or certificate has become final, the holder of the revoked permit, license or certificate may make written application for a new permit, license or certificate.

(1965 Code of Ordinances, Chapter 7, Article II, Section 7-30)

**Sec. 6.205 Inspections**

(a) Frequency. An inspection of a food service establishment shall be performed at least once every six (6) months. Additional inspections of the food service establishment shall be performed as often as are necessary for the enforcement of these rules.

(b) Access. Agents of the regulatory authority, after proper identification, shall be permitted to enter any food service establishment at any reasonable time for the purpose of making inspections to determine compliance with these rules. The agents shall be permitted to examine the records of the establishments to obtain information pertaining to food and supplies purchased, received or used, or to persons employed.

(c) Report of Inspections. Whenever an inspection of a food service establishment or commissary is made the findings shall be recorded on the inspection report form set out in subsection (e) below. The inspection report form shall summarize the requirements of these rules and shall set forth a weighted point value for each requirement. Inspectional remarks shall be written to reference, by section number, the section violated and shall state the correction to be made. The rating score of the establishment shall be the total of the weighted point values for all violations, subtracted from one hundred (100). A copy of the inspection report form shall be furnished to the person in charge of the establishment at the conclusion of the inspection. The completed inspection report form is a public document that shall be made available for public disclosure to any person who requests it according to law.

(d) Correction of Violations.

- (1) The inspection report form shall specify a reasonable period of time for the correction of the violations found and correction of the violations shall be accomplished within the period specified, in accordance with the following provisions:
  - (A) If an imminent health hazard exists, such as complete lack of refrigeration or sewage backup into the establishment, the establishment shall immediately cease food service operations. Operations shall not be resumed until authorized by the regulatory authority.
  - (B) All violations of four- or five-point-weighted items shall be corrected as soon as possible, but in any event, within ten (10) days following inspection. Within fifteen (15) days after the inspection, the holder of the permit, license or certificate shall submit a written report to the regulatory authority stating that the four- or five-point violations have been corrected. A follow-up inspection shall be conducted to confirm correction.

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- (C) All one- or two-point-weighted items shall be corrected as soon as possible, but in any event, by the time of the next routine inspection.
  - (D) When the rating score of the establishment is less than sixty (60), the establishment shall initiate corrective action on all identified violations within forty-eight (48) hours. One or more re-inspections will be conducted at reasonable time intervals to assure correction.
  - (E) In the case of temporary food service establishments, all violations shall be corrected within twenty-four (24) hours. If violations are not corrected within twenty-four (24) hours, the establishment shall immediately cease food service operations until authorized to resume by the regulatory authority.
- (2) The inspection report shall state that failure to comply with any time limits for corrections may result in cessation of food service operations. An opportunity for appeal from the inspection findings and time limitations will be provided if a written request for a hearing is filed with the regulatory authority within ten (10) days following cessation of operations. If a request for a hearing is received, a hearing shall be held within twenty (20) days of receipt of that request.
  - (3) Whenever a food service establishment is required under the provisions of this rule to cease operations, it shall not resume operations until such time as a reinspection determines. Those conditions responsible for the requirement to cease operations no longer exist. Opportunity for reinspection shall be offered within a reasonable time.

(e) Inspection Report Form. An inspection report form entitled "Food Service Establishment Inspection Report" based on the requirements of these rules is appended.

(1965 Code of Ordinances, Chapter 7, Article II, Section 7-31)

**Sec. 6.206 Examination and Condemnation of Food**

Food may be examined or sampled by the regulatory authority as often as necessary for enforcement of these rules. The regulatory authority may, upon written notice to the owner or person in charge specifying with particularity the reasons therefore, place a hold order on any food which it believes is in violation of subsection (a) of Rule .003 or any other provision of these rules. The regulatory authority shall tag, label or otherwise identify any food subject to the hold order. No food subject to a hold order shall be used, served or moved from the establishment. The regulatory authority shall permit storage of the food under conditions specified in the hold order, unless storage is not possible without risk to the public health, in which case immediate destruction shall be ordered and accomplished. The hold order shall state

that a request for hearing may be filed within ten (10) days and that if no hearing is requested the food shall be destroyed. A hearing shall be held if so requested, and on the basis of evidence produced at that hearing, the hold order may be vacated, or the owner or person in charge of the food may be directed by written order to denature or destroy such food or to bring it into compliance with the provisions of these rules. (1965 Code of Ordinances, Chapter 7, Article II, Section 7-32)

**Sec. 6.207      Review of Plans**

(a) Submission of Plans. Whenever a food service establishment is constructed or extensively remodeled and whenever an existing structure is converted to use as a food service establishment, properly prepared plans and specifications for such construction, remodeling or conversions shall be submitted to the regulatory authority for review and approval before construction remodeling or conversion is begun. The plans and specification shall indicate the proposed layout, arrangement, mechanical plans and construction materials of work areas, and the type and model of proposed fixed equipment and facilities. The regulatory authority shall approve the plans and specifications if they meet the requirements of these rules. No food service establishment shall be constructed, extensively remodeled or converted except in accordance with plans and specifications approved by the regulatory authority.

(b) Preoperational Inspection. Whenever plans and specification; are required by (a) above to be submitted to the regulatory authority, the regulatory authority shall inspect the food service establishment prior to its beginning operation to determine compliance with the approved plans and specifications and with the requirements of these rules.

(1965 Code of Ordinances, Chapter 7, Article II, Section 7-33)

**Sec. 6.208      Procedure When Infection is Suspected**

When the regulatory authority has reasonable cause to suspect the possibility of disease transmission from any food service establishment employee, it may secure morbidity history of the suspected employee or make any other investigation as may be indicated and shall take appropriate action. The regulatory authority may require any or all of the following measures:

- (1) The immediate exclusion of the employee from all food service establishments;
- (2) The immediate closing of the food service establishment concerned until, in the opinion of the regulatory authority, or further danger of disease outbreak exists;
- (3) Restriction of the employee's services to some area of the establishment where there would be no danger of transmitting disease;

- (4) Adequate medical and laboratory examination of the employee, of other employees and of his and their body discharges.

(1965 Code of Ordinances, Chapter 7, Article II, Section 7-34)

## **ARTICLE 6.300 GARBAGE, TRASH AND REFUSE<sup>\*(2)</sup>**

### **Sec. 6.301 Definitions**

As used in this section, the following words and phrases shall have the meanings respectively ascribed to them:

*Hazardous Waste.* Any solid waste identified or listed as a hazardous waste by the administrator of the United States Environmental Protection Agency (EPA) pursuant to the federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 United States Code 6901 et seq., as amended.

*Industrial Solid Waste.* Solid waste resulting from or incidental to any process of industry or manufacturing, or mining or agricultural operation.

*Municipal Solid Waste.* Solid waste resulting from or incidental to municipal, community, commercial, institutional and recreational activities, including garbage, rubbish, ashes and all other solid waste other than industrial solid waste.

### **Sec. 6.302 Accumulation and Collection of Refuse**

The emptying or disposing of any garbage, trash, refuse rubbish or solid waste, or the accumulation of any such matters, in any place within the city is hereby prohibited and no one except the duly authorized agents and employees of the city shall collect garbage, refuse, solid waste or empty containers containing garbage or refuse substances, or convey or transport garbage or refuse over the streets, alleys and public thoroughfares of the city, except as otherwise expressly provided in this article.

### **Sec. 6.303 Duty of Owners and Occupants of Real Property**

Every person owning, leasing, managing, operating, using or occupying any building, apartment, house, structure, grounds or premises within the city shall keep such building, apartment, house, structure, grounds or premises clean and clear of all garbage, kitchen garbage, trash, rubbish; all wastes, oil and greases from garages and filling stations; and all other articles and accumulations



that may cause such premises to become unsanitary and unsightly.

**Sec. 6.304 Containers Required; Use of City Containers**

(a) The City of Brownfield shall provide containers (dumpsters) of sufficient size and number in the residential and commercial districts for the deposit of garbage, refuse, rubbish or trash. These containers shall be fitted with a tight fitting lid, or cover, which shall remain closed on the container at all times, except when garbage, refuse, rubbish or trash is being deposited or collected. It shall be unlawful to place items in the dumpster that are so large the lid will not close or to overload a dumpster so the lid will not close.

(b) All garbage, refuse, rubbish or trash, including cardboard boxes, shall be deposited in the containers except as herein provided. A sufficient number of containers will be supplied at those businesses where a large number of cardboard boxes are disposed. All cardboard boxes shall be broken down or flattened out before being deposited in a container. All kitchen garbage shall be bagged or containerized before being deposited in the dumpsters.

(c) It shall be unlawful for any person to park any vehicle or object whatsoever in such a manner that it interferes with the movement of the garbage truck or emptying of a container. If the city is unable to access a container because of a vehicle, the city may:

- (1) Remove or cause removal of such vehicle or object at the owner's expense. Proof of ownership shall be prima facie evidence that such owner parked such vehicle so as to violate this subsection; or
- (2) Skip the pick up of the blocked container, however, if a request for a pick up is subsequently made for the container, then a charge shall be made for an additional pick up.

(d) It shall be unlawful for any person to deposit or cause to be deposited any garbage, refuse, rubbish or trash in any container required under this section unless the person has a current account with the city for disposal of garbage, refuse, rubbish or trash.

**Sec. 6.305 Collection by the City**

The city will make or cause to be made regular collections from the containers for the removal of trash and rubbish from all premises within the city, as provided in Section 6.310. The specific times of such collections shall be as announced by the proper officials of the city.

**Sec. 6.306 Prohibited Waste**

It shall be unlawful for any person or persons to place into containers any roofing or building materials, dirt, rocks or heavy items, heavy metals, engine blocks or auto parts, dead animals, motor oil, oil based paint, any type of hazardous waste, burning or smoldering materials. Waste which can properly be disposed in a municipal landfill shall be deposited at the City of Brownfield Sanitary Landfill site. All materials which may not be properly placed in the City of Brownfield Sanitary Landfill shall be disposed at a proper site in accordance with the ordinances of the City of Brownfield and laws and regulations of the State of Texas.

**Sec. 6.307 Disposal of Certain Waste**

It shall be the responsibility of the owner, operator, or occupant of any premises, store, factory, or business to properly dispose of all trees, automobile bodies, abandoned automobiles, tires, industrial waste, hazardous waste, including household hazardous waste such as paints and insecticides, tires and household appliances, and similar materials. Waste which can properly be disposed in a municipal landfill shall be deposited at the City of Brownfield Sanitary Landfill site. All materials which may not be properly placed in the City of Brownfield Sanitary Landfill shall be disposed at a proper site in accordance with the ordinances of the City of Brownfield and laws and regulations of the State of Texas.

**Sec. 6.308 Disposal of Yard Waste**

It shall be the responsibility of the owner or occupant of any premises to properly dispose of dirt, grass, trash and other waste resulting from yard work. Only grass clippings and leaves may be placed in the containers if bagged. All other waste shall be delivered to the Brownfield Sanitary Landfill or some other proper site for disposal in accordance with the ordinances of the City of Brownfield and laws and regulations of the State of Texas.

**Sec. 6.309 Disposal of Construction Wastes**

It shall be the responsibility of the owner or occupant of any premises to properly dispose of all scrap lumber, roofing materials, sheet rock or any other construction materials resulting from construction inside the city limits. Waste which can properly be disposed in a municipal landfill shall be deposited at the City of Brownfield Sanitary Landfill site. All materials which may not be properly placed in the City of Brownfield Sanitary Landfill shall be disposed at a proper site in accordance with the ordinances of the City of Brownfield and laws and regulations of the State of Texas.

**Sec. 6.310 Service Charge**

In order to defray the cost and expense of collecting and disposing of garbage, trash and rubbish in the city there is hereby charged and shall be collected from each and every person owning,

leasing, managing, occupying or operating any premises within the business or residential district with an active utility account the charges as set forth in the fee schedule in the appendix of this code.

**Sec. 6.311 Payment of Service Charges**

Payment of all charges assessed for the collection of garbage, rubbish and refuse shall be made at the same time as payment for other utility services provided by the city. Charges for garbage service shall be made monthly and shall be added to and placed upon the water or electric utility bill for each residence, apartment house, commercial or industrial establishment for which there is a water or electrical connection with the city. The person who is responsible for the payment of the water or the electric bill shall also be responsible for the payment of charges for garbage service. If charges for garbage service are not paid within twenty-five (25) days, the city shall refuse to furnish any water or electrical services to that residential, commercial or industrial account.

**Sec. 6.312 Burning Prohibited**

It shall be unlawful for any person within the city to burn or permit the burning of kitchen garbage, trash, rubbish, grass clippings or other yard waste in or upon any premises within the city whatsoever.

**Sec. 6.313 Disposal in Streets, Etc.; Prohibited**

It shall be unlawful for any person to place or dispose of any kitchen garbage, trash or rubbish in or upon any street, alley or sidewalk within the city. Every owner or operator of any premises shall keep the alleys, streets and sidewalks abutting such premises free and clear of all such garbage, trash and rubbish.

**Sec. 6.314 Meddling and Tampering With Garbage; Prohibited**

It shall be unlawful for any person to remove or tamper with any garbage, trash or rubbish receptacle or its contents.

**Sec. 6.315 Littering Prohibited**

It shall be unlawful for any person to deposit upon any street, alley, sidewalk, or yard or premise, public or private, any form of litter or waste matter

**Sec. 6.316 Duty of Business Owners and Occupants**

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- (a) The owner or occupant of any store or other place of business situated within the city shall exercise reasonable diligence at all times to keep his premise clean of used or waste materials deposited on his premises by customers or others and to take measures to prevent waste from drifting or blowing to other premises.
- (b) Receptacles of sufficient size and number to handle the waste generated by the business shall be placed by the owner or occupant of the business where they will be accessible to customers and shall be maintained so that waste is contained within the receptacle.
- (c) Each and every business establishment shall place upon its premises in a conspicuous place or places in close proximity to the receptacle or receptacles maintained by the business signs of at least two square feet in size, requesting that customers dispose of waste in the receptacles.

**Sec. 6.317 Disposal of Tires**

- (a) Rates. For the purpose of furnishing disposal of any whole tires by the city sanitation department, such services shall be charged for by the city in accordance with the rates hereinafter established and set out, and the charges are as set forth in the fee schedule in the appendix of this code.
- (b) When and Where Payment Received; Grounds for Refusal to Unload. The payment of all charges assessed for the disposal of any and all whole tires shall be paid beforehand at the landfill disposal of any whole tires.
- (c) Manifest Ticket. A printed manifest ticket in the form specified by the Texas Department of Health shall be furnished by the hauler and shall be filled out in triplicate for each load. The second carbon shall be left with the generator, the first carbon shall be retained by the hauler and the original shall be surrendered to the city's site operator upon entry into the landfill. The manifest ticket shall be completely filled out including:
  - (1) The name of the transporter company.
  - (2) The name of the driver.
  - (3) The truck license number.
  - (4) The date of the tire pickup.
  - (5) The TDH Transporter Registration number.
  - (6) The identity of the generator.

(7) The total number of each size tire: passenger tires, truck tires and off-road tires.

(d) Bond Required; Approval/Clearance to Dispose of Tires; Payments to be Calculated From Manifests. A five thousand dollar (\$5,000.00) bond shall be submitted to the city that guarantees to the city that the transporter is in compliance with all federal, state and city rules, regulations, statutes and/or ordinances. The bond will also insure the city for any payments due the city under this article by a transporter. After submission of the bond, the tire transporter may receive approval and/or clearance in advance from the city to dispose of tires at the city's landfill site and to make payment at the month's end when billed by the city. Any payments due the city under this section will be calculated from the manifest submitted by the transporter.

(e) Nonpayment of Sums Grounds for Revocation. Nonpayment of any sums due under this section shall be grounds for the revocation of any transporter's right to dispose of tires in the city's landfill site.

**Sec. 6.318 Penalty**

Any person, firm or individual who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in accordance with Section 1.109 of this code. Each and every day the violation continues shall constitute a separate and distinct offense.

(Ordinance 1853 adopted 12/7/00)

**ARTICLE 6.400 AUTHORITY OF HEALTH AUTHORITY TO ENTER BARBERSHOPS AND BEAUTY SHOPS FOR PURPOSES OF INSPECTION**

The health authority of the City of Brownfield is hereby authorized access to inspect those barbershops and beauty shops located in the City of Brownfield, Texas. Such inspection is to monitor compliance with state health regulations. (1965 Code of Ordinances, Chapter 9, Article I, Section 9-2)

**ARTICLE 6.500 OFFENSIVE CONDITIONS<sup>\*(3)</sup>**

**Sec. 6.501 Accumulation of Carrion, Filth, Etc.**

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

to accumulate or remain thereon. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-13)

**Sec. 6.502     Accumulations of Stagnant Water**

It shall be unlawful for the owner of any lot or other premises in the city to allow or permit holes or places where water may accumulate and become stagnant to be or remain on such lot or premises or to allow or permit the accumulation of stagnant water thereon, or to permit the same to remain thereon. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-14)

**Sec. 6.503     Wastewater, Grease, Etc.; Not to be Allowed to Escape Onto Streets**

It shall be unlawful for any person, or for the operator, manager, agent or employee of any place of business to allow or permit any wastewater, grease, greasy or sandy water to escape from any private premises onto any street, alley or sidewalk of the city. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-16)

**Sec. 6.504     Allowing Buildings or Premises to Become Menace to Public Health**

Any person who shall own, keep or use any building or premises in the city in such a manner as to be injurious to the health of the people, or offensive to the neighborhood, or to any private family or person, shall be deemed guilty of a misdemeanor. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-18)

**Sec. 6.505     Refuse, Etc.; Deposited on Streets**

It shall be unlawful for any person to dump, deposit or leave any refuse, garbage, rubbish or junk on any street within the city. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-19)

**Sec. 6.506     Notice to Owner to Remedy or Remove Condition; Required**

Whenever any condition described in this article is found to exist on any premises within the city, the owner of such premises shall be notified by the city, in writing, to correct, remedy or remove the condition within ten (10) days after such notice and it shall be unlawful for any person to fail to comply with such notice. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-20)

**Sec. 6.507     Same-Service**

The notice provided for in Section 6.506 shall be served personally on the owner to whom it is directed or shall be given by letter addressed to such owner at his last known post office address. In the event personal service cannot be made and the owner's address is unknown, such notice

shall be given by publication at least two (2) times within ten (10) consecutive days in a newspaper of general circulation published within the city. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-21)

**Sec. 6.508 Authority of City to Abate Offensive Conditions<sup>\*(4)</sup>**

In the event the owner of any lot or premises upon which a condition described in this article exists fails to correct, remedy or remove such condition within ten (14) days after notice to do so is given in accordance with this article, the city may do such work or make such improvements as are necessary to correct, remedy or remove such condition, or cause the same to be done, and pay therefore and charge the expenses incurred thereby to the owner of such lot. Such expenses shall be assessed against the lot or real estate upon which the work was done or the improvements made. The doing of such work by the city shall not relieve such person from prosecution for failure to comply with such notice in violation of Section 6.606. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-22)

**Sec. 6.509 Statement of Expenses of Abatement by City**

Whenever any work is done or improvements are made by the city under the provisions of Section 6.508, the mayor or health officer, on behalf of the city, shall file a statement of the expenses incurred thereby with the county clerk. Such statement shall give the amount of such expenses and the date or dates on which the work was done or the improvements were made. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-23)

**Sec. 6.510 Lien for Collection of Expenses of Abatement**

After the statement provided for in Section 6.509 is filed, the city shall have the privilege lien on the lot or real estate upon which the work was done or improvements made, to secure the expenses thereof. Such lien shall be second only to tax liens and liens for street improvements, and the amount thereof shall bear interest at the rate of ten (10) percent per annum from the date the statement was filed. For any such expenditures and interest, suit may be instituted and recovery and foreclosure of the lien may be had in the name of the city and the statement of expenses made in accordance with Section 6.509, or a certified copy thereof, shall be prima facie proof of the amount expended for such work or improvement. (1965 Code of Ordinances, Chapter 9, Article II, Section 9-24)

**ARTICLE 6.600 RAT CONTROL**

**Sec. 6.601 Definitions**

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For the purposes of this article the following definitions shall apply:

*Business Buildings*. Shall mean any structure, whether public or private, that is adapted for occupancy for transaction of business, for rendering of professional service, for amusement, for the display, sale or storage of goods, wares, or merchandise, or for the performance of work or labor, including hotels, apartment buildings, tenement houses, rooming houses, office buildings, public buildings, stores, theatres, markets, restaurants, grain elevators, abattoirs, warehouses, workshops, factories, and all out houses, sheds, barns and other structures or premises used for business purposes.

*Health Officer*. Shall mean the superintendent, commissioner or director of health or his duly authorized representatives.

*Occupant*. Shall mean the individual, partnership, or corporation that uses or occupies any business building, whether the actual owner or tenant. In the case of vacant business buildings or vacant portions thereof, the owner, agent, or custodian shall have the responsibility as occupant.

*Owner*. Shall mean the actual owner, agent, or custodian of the business building, whether individual, partnership, or corporation. The lessee shall be construed as the "owner" for the purpose of this article when business buildings agreements hold the lessee responsible for maintenance and repairs.

*Rat Eradication*. Shall mean the elimination or extermination of rats within buildings by any or all of the accepted measures, such as: poisoning, fumigation, trapping, clubbing, etc.

*Rat Harborage*. Shall mean any condition, which provides shelter or protection for rats, thus favoring their multiplication and continued existence in, under, or outside of any structure.

*Ratproofing*. Shall mean a form of construction to prevent the ingress of rats into business buildings from the exterior or from one business building or establishment to another. It consists essentially of treatment with material, impervious to rat gnawing, all actual or potential openings in exterior or from one business building or establishment to another. It consists essentially of treatment with material, impervious to rat gnawing, all actual or potential openings in exterior walls, ground or first floors, basements, roof and foundations, that may be reached by rats from the ground by climbing or burrowing.

(1965 Code of Ordinances, Chapter 9, Article III, Section 9-35)

**Sec. 6.602     Ratproofing of Business Buildings; Required**

All business buildings in the city shall be ratproofed, freed of rats, and maintained in a ratproof



and rat free condition to the satisfaction of the health officer. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-36)

**Sec. 6.603 Same-Notice to; Compliance by Owner**

Upon receipt of written notice and/or order from the health officer, the owner of any business building specified therein shall take immediate measures for ratproofing the building, and that unless said work and improvements have been completed by the owner in the time specified in the written notice, in no event to be less than fifteen (15) days, or within the time to which a written extension may have been granted by the health officer, then the owner shall be deemed guilty of an offense under the provisions of this article. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-37)

**Sec. 6.604 Same-Notice to; Compliance by Occupant**

Whenever the health officer notifies the occupant or occupants of a business building in writing that there is evidence of rat infestation of the building, said occupant or occupants shall immediately institute rat eradication measures and shall continuously maintain such measures in a satisfactory manner until the premises is declared by the health officer to be free of rat infestation. Unless said measures are undertaken within five (5) days after receipt of notice, it shall be construed, as a violation of the provisions of this article and occupant shall be held responsible therefore. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-38)

**Sec. 6.605 Same-Maintenance**

The owners of all ratproofed business buildings are required to maintain the premises in a ratproofed condition and to repair all breaks or leaks that may occur in the ratproofing without a specific order of the health officer. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-39)

**Sec. 6.606 Same-Closure of Occupied Buildings**

Whenever conditions inside or under any occupied business buildings within the city provide extensive harborage for rats in the opinion of the health officer, the health officer is empowered, after due notification in accordance with Section 6.603, to close such business buildings until such time as the conditions are abated by ratproofing and harborage removal including, if necessary, the installation of suitable concrete floors in basements or replacement of wooden first or ground floors with concrete or other major repairs necessary to facilitate rat eradication. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-40)

**Sec. 6.607 Same-Condemnation of Unoccupied Buildings**

Whenever conditions inside or under any unoccupied business buildings provide extensive harborage for rats in the opinion of the health officer, the health officer is empowered to require compliance with the provisions of Section 6.603, above and in the event that said conditions are not corrected in a period of sixty (60) days, or within the time to which a written extension may have been granted by the health officer, the health officer is empowered to institute condemnation and destruction proceedings. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-41)

**Sec. 6.608     Where Foodstuffs Stored, Kept, Etc.**

It shall be unlawful for any person to occupy any new or existing business buildings wherein foodstuffs are to be stored, kept, handled, sold, held or offered for sale without complying with the provisions of this article; unless the provisions of this section are complied with, no city license or permit to conduct or carry on any business mentioned above will be issued. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-42)

**Sec. 6.609     Storage of Food and Feed**

All food and feed within the city for feeding chickens, cows, pigs, horses and other animals shall be stored in rat free and ratproof containers, compartments, or rooms unless stored in a ratproof building. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-43)

**Sec. 6.610     Inspections**

The health officer is empowered to make unannounced inspections of the interior and exterior of business buildings to determine full compliance with this article, and the health officer shall make periodic inspections at intervals of not more than forty-five (45) days of all ratproofed buildings to determine evidence of rat infestation and the existence of new breaks or leaks in their ratproofing and, when any evidence of it is found indicating the presence of rats or openings through which rats may again enter business buildings, the health officer shall serve the owners or occupants with notice and/or orders to abate the conditions found. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-44)

**Sec. 6.611     Restoration of Ratproofing Following Repair, Reconstruction, Etc.**

It shall be unlawful under the provisions of this article for the occupant, owner, contractor, Public Utility Company, plumber, or any other person to remove and fail to restore in like condition the ratproofing from any business building for any purpose. It shall further be unlawful for any person or agent to make any new openings that are not closed or sealed against the entrance of rats. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-45)

**Sec. 6.612 Storage of Lumber, Boxes, Etc.**

It shall be unlawful for any person to permit to accumulate on any premises, improved or vacant, or on any open lot or alley in the city, any lumber, boxes, barrels, bottles, cans, containers or similar materials that may be permitted to remain thereon unless same shall be placed on open racks that are elevated not less than eighteen (18) inches above the ground and evenly piled or stacked. (1965 Code of Ordinances, Chapter 9, Article III, Section 9-46)

**ARTICLE 6.700 PUBLIC SWIMMING POOLS**

**Sec. 6.701 Operation and Maintenance; Generally**

Swimming pools shall be operated and maintained in a sanitary condition as required by state statutes and regulations. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-61)

**Sec. 6.702 Record of Chlorine Residual Levels and pH Checks**

A written record of chlorine residual and pH checks should be maintained. Samples should be collected during periods of heaviest swimmer load and should be varied in order to get a representative cross section of water quality. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-62)

**Sec. 6.703 Permissible Chlorine Residual Levels**

The minimum chlorine residual of the pool water shall be maintained at two-tenths (0.2) to five-tenths (0.5) parts per million or maintained with other disinfectant methods approved by the Texas Department of Health. However, chlorine residuals as high as one (1.0) part per million are not harmful and may be beneficial during heavy swimmer loads and as a deterrent to algae. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-63)

**Sec. 6.704 Permissible pH Levels**

The water shall not be permitted to show an acid reaction to a standard pH test and should be maintained at a pH of 7.2 to 7.6. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-64)

**Sec. 6.705 Construction Standards**

The pool shall be constructed in conformance with good public health engineering practices, as required by "Design Standards for Public Swimming Pool Construction," Texas Department of

Health.

- (1) Proper water filtration equipment and recirculation equipment should be provided.
- (2) Pools should be equipped with skimmers or scum gutters.

(1965 Code of Ordinances, Chapter 9, Article IV, Section 9-65)

**Sec. 6.706 Bathhouses**

Bathhouses where provided shall be maintained in a sanitary condition. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-66)

**Sec. 6.707 Swimming Suits**

Swimming suits if rented or loaned shall be properly laundered after each use. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-67)

**Sec. 6.708 Persons With or Suspected of Having Communicable Diseases or Infections**

Persons suspected or known to have a communicable disease or infected with a transmissible condition or a communicable disease shall be excluded from the pool. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-68)

**Sec. 6.709 Safety Rules**

Safety rules outlined under "Safety Around a Swimming Pool" in the Texas Department of Health's "A Training Course in Swimming Pool Operation" and "Design: Standards for Public Swimming Pool Construction" shall be followed. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-69)

**Sec. 6.710 Swimming Pool User Capacity**

Swimming pool user capacity guidelines outlined in Section 22.0 of the Texas Department of Health's "Design Standards for Public Swimming Pool Construction" shall be followed. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-70)

**Sec. 6.711 Clarity of Pool Water**

Clarity of the pool water is ordinarily tested by visual inspection, but a six-inch black disc painted on a white background may be used. This device on the end of stout cord is thrown into

the deep end of the pool and observed from the pool edge. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-71)

## **ARTICLE 6.800 SWIMMING POOL ENCLOSURES <sup>\*(5)</sup>**

### **Sec. 6.801 Application of Provisions**

This division shall be applicable to all swimming pools or family pools constructed in the city other than indoor pools, which have a minimum depth of eighteen (18) inches of water. No person in possession of land within the city, either as owner, purchaser, lessee, tenant or a licensee, upon which is situated a swimming pool or family pool having a minimum depth of eighteen (18) inches shall fail to provide and maintain a fence, wall or other enclosure as required by this article. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-81)

### **Sec. 6.802 Enforcement of Article Provisions**

The health department may make modifications in individual cases, upon a showing of good cause with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity therefore, provided the protection as sought hereunder is not reduced thereby. The health department may permit other protective devices or structures to be used so long as the degree of protection afforded by the substitute devices or structures is not less than the protection afforded by the wall, fence, gate and latch described herein. The health department shall allow a reasonable period within which to comply with the requirements of this division. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-82)

### **Sec. 6.803 Required; Specifications**

Every outdoor swimming pool or family pool shall be completely surrounded by a fence or wall not less than four (4) feet in height which shall be so constructed as not to have openings, holes, or gaps larger than four (4) inches in any dimension except for doors and gates. If a picket fence is erected or maintained, the horizontal dimension between pickets shall not exceed four (4) inches. A dwelling house or accessory building may be used as part of such enclosure. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-83)

### **Sec. 6.804 Gate and Door Latches**

All gates or doors opening through such enclosure shall be equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure need not be so equipped. (1965 Code of Ordinances, Chapter 9, Article IV, Section 9-84)

**ARTICLE 6.900 WEEDS, RUBBISH, ETC.\*(6)**

**Sec. 6.901 Unwholesome Conditions Specified; Unlawful to Maintain**

(a) It shall be unlawful for the owner, lessee, or occupant of any land, tract, or lot, parcel or any portion thereof, regardless of size, within the corporate limits of the city, to fail to maintain said property free of weeds, grass and undergrowth over twelve (12) inches tall, or to fail to maintain said property free from household trash, garbage, used building materials and supplies, used and or discarded household fixtures or appliances, toxic materials, stagnant water, dead animals, brush piles, debris, rubbish, materials which constitute a fire hazard, or any other matter which may be detrimental to the health, safety and welfare of the citizens of the city. Pursuant to the election of the city council as authorized by Section 217.042 of the Texas Local Government Code, this article as amended shall be effective within the city limits and within 5,000 feet of the limits of the city.

(b) The words land, lot, tract or parcel shall include any area within the platted or described parcel of land and extending to the curblineline of an adjacent street where a curblineline has been established. Where no curblineline has been established the parcel shall extend to the edge of the pavement and if no pavement to the center of the unpaved street. If the parcel is adjacent to an alley the land, lot, tract or parcel shall extend to the center of the alley.

**Sec. 6.902 Abatement**

(a) Should any owner of any lot or lots within the city allow weeds, rubbish, brush, or any other unsightly, objectionable or unsanitary matter to remain upon his property, in violation of this article, following seven (7) days' notice of a violation, the city may:

- (1) Do the work or make the improvements required;
- (2) Pay for the work done or improvements made and charge the expenses to the owner of the property;
- (3) File a lien statement in accordance with Section 6.906.

(b) Notice shall be given:

- (1) Personally to the owner in writing;
- (2) By letter, mailed by certified mail return receipt requested, addressed to the owner at

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the owner's post office address as recorded in the appraisal district records of the Terry County Appraisal District; or

- (3) If personal service cannot be obtained or the owner's post office address is unknown:
  - (A) By publication at least once in a newspaper of general circulation within the city; and
  - (B) By posting the notice on or near the front door of each building on the property to which the violation relates; or
  - (C) By posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(c) If a notice to a property owner is mailed in accordance with this section or Section 6.903 and the United States Postal Service returns the notice as refused or unclaimed, the validity of the notice is not affected, and the notice is considered as delivered.

**Sec. 6.903     Alternate Method of Notice**

(a) As an alternative method of notice to that provided in Section 6.902, the city may deliver notice by certified mail return receipt requested. The notice shall contain the following:

- (1) A statement that if the owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the city without further notice may correct the violation at the owner's expense and assess the expense against the property.

(b) If a violation covered by this subsection occurs within the one-year period, and the city has not been informed of a change of ownership, the city may without further notice to the owner, take action permitted by Section 6.902 and assess its expenses as provided in Section 6.906.

**Sec. 6.904     Hearing**

Upon completion of notice as required by Section 6.902 or 6.903 above, the owner may, within seven (7) days, request a hearing before the city council to appear and show cause why the alleged nuisance should not be abated. If a timely request for hearing is received, the city council shall hold a hearing within seven (7) days of the request. The purpose of the hearing shall be to determine whether the property is in violation of this article and whether it should be abated. Following completion of the hearing, the city council may issue such orders regarding the property as it, in the council's sole discretion, deems appropriate under the circumstances.

**Sec. 6.905     Emergency Abatement**

- (a) The city may abate, without notice, weeds that:
  - (1) Have grown higher than 48 inches; and
  - (2) Are an immediate danger to the health, life, or safety of any person.
- (b) Not later than the 10th day after the date the city abates weeds under this section, notice shall be given to the property owner in the manner required by Section 6.902.
- (c) The notice shall contain:
  - (1) An identification, which is not required to be a legal description, of the property;
  - (2) A description of the violations of the ordinance that occurred on the property;
  - (3) A statement that the municipality abated the weeds; and
  - (4) An explanation of the property owner's right to request an administrative hearing about the municipality's abatement of the weeds before the city council.
- (d) The city council shall conduct the hearing on the abatement of weeds under this section if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the city secretary a written request for a hearing.
- (e) The administrative hearing conducted under this section shall be conducted not later than the 20th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the municipality's abatement of the weeds.
- (f) The city may assess expenses and create liens under this section as it assesses expenses and creates liens under Section 6.906.



**Sec. 6.906 Filing of Lien Statement**

The mayor, city health officer or municipal official designated by the mayor shall file a statement of expenses incurred under Section 6.902 with the county clerk of Terry County, Texas. The lien statement shall state the name of the owner, if known, the legal description of the property, a description of the work performed and the amounts claimed. The lien attaches upon the filing of the lien statement with the county clerk. The lien shall accrue interest at a rate of 10% per annum from the date the city pays for the work or improvements. The lien is inferior only to tax liens and liens for street improvements. The city may bring a suit for foreclosure to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the municipality in doing the work or making the improvements.

**Sec. 6.907 Penalty**

Any person, firm or individual who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in accordance with Section 1.109 of this code.

(Ordinance 1989 adopted 4/16/09)

## **Endnotes**

### **1 (Popup - Popup)**

\* **State Law reference**-Regulation of food service establishments, retail food stores, mobile food units, and roadside vendors, V.T.C.A., Health & Safety Code, Sec. 437.001, et. seq.

### **2 (Popup - Popup)**

\* **State Law reference**-Authority to enforce laws to protect public health, V.T.C.A., Health & Safety Code, Sec. 121.003; Local regulation of sanitation, V.T.C.A., Health & Safety Code, ch. 342; Authority to make regulations for the promotion of health and the suppression of disease, V.T.C.A., Health & Safety Code, Sec. 122.005; Minimum standards of sanitation and health protection, V.T.C.A., Health & Safety Code, ch. 341.

### **3 (Popup - Popup)**

\* **Cross reference**-Chapter 8, Offenses and Nuisances.

### **4 (Popup - Popup)**

\* **State Law reference**-Authority to enforce laws to protect public health, V.T.C.A., Health & Safety Code, Sec. 121.003.

### **5 (Popup - Popup)**

\* **State Law reference**-Swimming pool enclosures, V.T.C.A., Local Government Code, Sec. 214.101.

### **6 (Popup - Popup)**

\* **State Law reference**-Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health & Safety Code, Sec. 342.004.