

## **CHAPTER 3**

# **BUILDING REGULATIONS**

### **ARTICLE 3.100 BUILDING PERMIT FEES**

Building permits shall be issued by the city secretary upon application therefor upon the payment by the applicant of the fees as provided for in the fee schedule found in the appendix of this code. (1965 Code of Ordinances, Chapter 4, Article I, Section 4-4)

### **ARTICLE 3.200 BUILDING CODE**

#### **Sec. 3.201 Adoption; Purpose and Intent**

(a) The purpose of this article is to provide minimum requirements to safeguard life, health and public welfare and the protection of property as it relates to these safeguards by regulating and controlling the design, construction, alteration, repair, equipment, use and occupancy, location and maintenance of all buildings or structures and appurtenances thereto.

(b) The International Building Code is dedicated to the development of better building construction and greater safety to the public and uniformity in building laws; to the granting of full justice to all building materials on a fair basis of the true merits of each material; and to development on a sound economic basis or the future growth of our nation through unbiased and equitable dealing with building construction.

(c) The 2012 edition of the International Building Code represents the revisions and changes officially approved at annual conferences through the year 2012, and is hereby adopted as the building code of the city. The code is adopted in its entirety except for those changes set out in Section 3.202. A copy of the 2012 edition of the International Building Code with the amendments made herein shall be maintained in the office of the building official and shall be available to the public upon request.

(Ordinance 2037 adopted 1/17/13)

#### **Sec. 3.202 Amendments**

*Brownfield Code of Ordinances*

The building code adopted in Section 3.201 is amended as hereinafter set out:

- (1) All references to the ICC Electrical Code shall read National Electrical Code 2002 edition.
- (2) All references to the International Fire Code shall read NFPA #1 Uniform Fire Code.
- (3) *Section 101.1* Insert: City of Brownfield.
- (4) *Section 101.4.5* is deleted in its entirety.
- (5) *Section 101.4.6* is deleted in its entirety.
- (6) *Section 102.6 Existing Structures* is amended to read as follows:

*102.6 Existing Structures.* The legal occupancy of any structure existing as of the date of adoption of this code shall be permitted to continue without change, except as is specifically covered by this code, the Dangerous Building Ordinance of the City of Brownfield or the NFPA#1 Uniform Fire Code, or as is deemed necessary by the building official for the general welfare of the occupants and the public.

- (7) *Section 103.3*, delete final sentence.
- (8) *Section 105.1.1* is amended to read as follows:

*105.1.1 Contractor's license and bond required.* It shall be the duty of every contractor or builder, who shall make contracts for the erection or construction or repair of buildings for which a permit is required, and every contractor or builder making such contracts and subletting the same, or any part thereof, to give a good and sufficient bond in the sum prescribed as required by the administrative authority and approved by the city attorney's office, conditioned to conform to the building regulations, the regulations of this section, and other ordinances or laws of the applicable governing body in reference to buildings. However, this section shall not apply to any person personally performing labor on property owned by that person.

Before any person, firm or corporation shall engage in the business of building in the city, he, it or they shall first obtain the proper license and deposit with the city a good and sufficient bond in the sum of five thousand dollars (\$5,000.00), conditioned that the person, firm or corporation engaged in the building business will faithfully observe all the laws pertaining to building; further, that the city shall be indemnified and saved harmless from all claims arising from accidents and damage of any

*Brownfield Code of Ordinances*

character whatsoever caused by the negligence of such person, firm or corporation engaged in the building business, or by any other unfaithful inadequate work done either by themselves or their agents or employees.

- (9) *Section 113.4 Violations penalties*, shall be amended by deleting the word, “law” at the end of the paragraph and inserting therefor the words, “The City Code of the City of Brownfield.”

**Sec. 3.203     Penalty for Violation**

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 Section 1.109 of this code. Each day’s violation shall constitute a separate offense.

**Sec. 3.204     Building Contractor Registration**

No building permit shall be issued to any building contractor or person for work to be performed pursuant to a building permit unless such building contractor or person is registered with the building official of the city in accordance with the following provisions:

- (1) Registration as a building contractor shall be made upon forms provided by the building official of the city and all information requested shall be submitted by the applicant.
- (2) Registrations shall expire December 31 of each year and must be renewed annually in order to acquire building permits or continue work on currently issued building permits.
- (3) Failure to keep proper insurance or a valid bond in force will result in termination of registration and invalidate any active building permits issued to the building contractor or person. Should such insurance policy or bond expire, all fees, including all permit fees, must be paid again upon renewal of registration.
- (4) Registration may be revoked or rejected by the building official for the following reasons:
  - (A) Failure to obtain and keep in effect required bonds;
  - (B) Failure to fully complete the registration form;
  - (C) Failure to pay any required fees;

- (D) Refusal to correct any code violation after notice; or
- (E) Continuous or repeated violations of the Code of Ordinances of the city.
- (5) No registration shall be required for a building permit to be issued to a homeowner who occupies the property as his permanent residence.
- (6) The annual registration fee shall be provided for in the fee schedule found in the appendix of this code.

(Ordinance 1963 adopted 10/4/07)

**ARTICLE 3.300 INTERNATIONAL RESIDENTIAL CODE\*(1)**

**Sec. 3.301 Adoption; Purpose and Intent; Amendments**

(a) A certain document, three (3) copies of which are in file in the office of the city secretary, being marked and designated as the International Residential Code, 2012 edition, including appendix chapters B, G, M, as published by the International Code Council, be and is hereby adopted as the residential code of the city, for regulating and governing the construction, alteration, movement, enlargement, replacement, repair, equipment, location, removal and demolition of detached one- and two-family dwellings and multiple single-family dwellings (townhouses) not more than three stories in height with separate means of egress as herein provided; providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said residential code on file in the office of the city secretary are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in subsection (b) of this section. (Ordinance 2036 adopted 1/17/13)

(b) The following sections of the code are hereby revised:

*Section R101.1* Insert: City of Brownfield

*Table R301.2(1)* Insert: [Appropriate Design Criteria]

*Section P3103.1* Insert: [Number of Inches in Two Locations]

(Ordinance 1935 adopted 5/4/06)

**Sec. 3.302 Penalty for Violation**

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 found in Section 1.109 of this code. Each day's violation shall constitute a separate offense. (1965 Code of Ordinances, Chapter 4, Article II, Section 4-22)

**ARTICLE 3.400 DANGEROUS BUILDINGS\*(2)**

**Sec. 3.401 Scope**

This article is adopted pursuant to authority of Chapter 214 of the Texas Local Government Code and pursuant to the authority of the City of Brownfield as a Home Rule Municipality.

**Sec. 3.402 Purpose**

The purpose of this article is to provide minimum requirements for the protection of life, health, property, safety and welfare of the general public from the hazards and dangers of substandard structures; to establish minimum standards for the continued use and occupancy of all structures, regardless of the date of their construction; to provide for giving proper notice to the owner of a structure; and to provide for a public hearing to determine whether a structure complies with the standards set out in this article.

**Sec. 3.403 Application**

(a) Application. The provisions of this article shall apply to all structures, buildings or portions thereof, regardless of the date of construction, all related structures and their premises when located within the corporate limits of the City of Brownfield. Any commercial building not used, or designed or intended to be used for human occupancy must meet all provisions except those provisions properly limited to buildings which contain living units.

(b) Alteration. Existing structures which are altered or enlarged shall be made to conform to this article insofar as the new work is concerned and in accordance with the building code.

(c) Relocation. Existing buildings which are moved or relocated shall be considered as new buildings and shall comply with all the requirements of this article and the building code as adopted by the City of Brownfield.

**Sec. 3.404 Enforcement by Building Inspector**

*Brownfield Code of Ordinances*

(a) Authority. The building inspector, or his designee is hereby authorized and directed to administer and enforce all of the provisions of this article.

(b) Rights of Entry. Whenever necessary to make an inspection to enforce any of the provisions of this article, or when there is reasonable cause to believe that there exists in any structure or upon any premises any condition which makes it substandard as defined in this article the building inspector or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed by this article; provided that if such structure or premises be occupied, he shall first make a reasonable effort to locate the owner, or persons having charge or control of the building or premises, and request permission to enter the premises. If such entry is refused, the building inspector or his authorized representative shall obtain an administrative search warrant as provided in Section 18.05 of the Texas Code of Criminal Procedure.

(c) Responsibilities Defined.

- (1) Every owner remains liable for violations of duties imposed upon him by this article, even though an obligation is also imposed on the occupants of his building, and even though the owner has by agreement imposed on the occupant the duty of furnishing required equipment or of complying with this article. Every owner or his agent shall be responsible for maintaining his structure in a sound structural condition. The owner or his agent shall be responsible for keeping that part of the structure or premises which he occupies or controls in a clean, sanitary and safe condition, including the shared or public areas in a building containing two or more dwelling units.
- (2) Where required by the building code, this article or the health ordinances, every owner shall furnish and maintain such approved sanitary facilities as required, and shall furnish and maintain approved devices, equipment or facilities for the prevention of insect and rodent infestation. Where infestation has taken place, the owner or his agent shall be responsible for the extermination of any insects, rodents or other pests.
- (3) Every occupant of a dwelling unit shall be responsible for keeping that part of the dwelling or dwelling unit or premises which he occupies and controls in a clean, sanitary and safe condition. Every occupant shall dispose of all rubbish, garbage and other organic waste in a manner required by the health ordinances and approved by the health officer.
- (4) Where required by the building code, this article or the health ordinances, every occupant shall furnish and maintain approved devices, equipment or facilities

necessary to keep premises safe and sanitary.

- (5) Where sections of this article have requirements that conflict with the building code, the building code shall apply.

### **Sec. 3.405 Substandard Structure Defined**

*Substandard Structure.* Any structure or portion thereof which fails to meet the requirements of this article is substandard and shall be abated in accordance with the procedures specified in this article.

### **Sec. 3.406 Interpretation**

The zoning board of adjustment shall provide the final interpretation of the provisions of this article and provide for hearings and the issuance of orders. The board may adopt reasonable rules and regulations for conducting its hearings under this article and shall render all decisions and findings in writing to the property owner(s), mortgagees and lien holders. Hearings before the zoning board of adjustment shall be provided for in accordance with the provisions contained in Section 3.417 of this article.

### **Sec. 3.407 Violations**

No person, firm or corporation, whether as owner, lessee, sublessee or occupant, shall erect, construct, enlarge, alter, repair, move, improve, remove, demolish, equip, use, occupy or maintain any building, structure, or premises or cause or permit the same to be done contrary to or in violation of any of the provisions of this article or any order issued by the zoning board of adjustment hereunder. Any person violating the provisions of this article shall be guilty of a misdemeanor and may be fined in accordance with the general penalty provision found in Section 1.109 of this code. Each day the violation continues shall constitute a separate offense.

### **Sec. 3.408 Permits and Inspections-Per Structure**

No building or structure regulated by this article shall be erected, constructed, enlarged, altered, repaired, moved, improved, removed, converted or demolished unless a separate permit for each building or structure has first been obtained in accordance with the applicable provisions of the building code.

### **Sec. 3.409 Permits and Inspections-Fees**

Whenever a building permit is required by Section 3.408 of this article, the appropriate fees shall be paid as specified in the building code.

**Sec. 3.410 Permits and Inspections-Inspection**

All buildings or structures within the scope of this article and all construction or work for which a permit is required shall be subject to inspection in accordance with the building code.

**Sec. 3.411 Definitions**

For the purpose of this article, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified in the building code. Additional phrases are defined as follows:

Building Inspector. The person designated by the city manager with the approval of the city council to be the building inspector.

Health Officer. Health officer shall be the legally designated representative of the Texas Department of Health.

Hot Water. Hot water shall be water at a temperature of not less than 120° F.

Building Code. Building code shall mean the International Residential Code as it has been adopted by the City of Brownfield.

Structure. That which has been or is under construction, including but not limited to all buildings, basements, fences, walls, septic tanks, foundations or sidewalks.

Improper. Methods of installation or equipment not authorized by the building code, electrical code, mechanical code or plumbing code are improper.

Occupancy Standards-Location. All structures shall be located with respect to property lines and to other structures on the same property as required by the Code of Ordinances of the City of Brownfield and the building code.

**Sec. 3.412 Permits and Inspections-General**

(a) General. Buildings or structures may be of any type of construction permitted by the building code. Roofs, floors, walls, foundations, and all other structural components of buildings shall be capable of resisting any and all forces and loads to which they may be subjected. All structural elements shall be proportioned and joined in accordance with the stress limitations and design criteria as specified in the appropriate sections of the building code. Buildings of every permitted type of construction shall comply with the applicable requirements of the building code.



(b) Shelter. Every building shall be weather protected so to provide shelter for the occupants against the elements and to exclude dampness.

(c) Protection of Materials. All wood shall be protected against termite damage and decay as provided in the building code.

### **Sec. 3.413 Heating and Ventilation**

(a) Heating. Every dwelling unit and guest room shall be provided with heating facilities capable of maintaining a room temperature of 70 F. at a point three (3) feet above the floor in all habitable rooms. Such facilities shall be installed and maintained in a safe condition and in accordance with the building code and all other applicable laws. No unvented fuel burning heaters shall be permitted unless of a type approved by the building code.

(b) Electrical Equipment. All electrical equipment, wiring and appliances shall be installed and maintained in a safe manner in accordance with all applicable laws. All electrical equipment shall be of type approved by the building code.

(c) Ventilation. Ventilation for rooms and areas, and for fuel-burning appliances shall be provided as required in the building code and in this article.

### **Sec. 3.414 Fire Protection**

All buildings or portions thereof shall be provided with the degree of fire-resistive construction as required by the building code for the appropriate occupancy, type of construction, and location on property and shall be provided with the appropriate fire-extinguishing systems or equipment required by the building code.

### **Sec. 3.415 Substandard Buildings**

(a) General. Any building, structure or portion thereof, including any dwelling unit, guest room or suite of rooms, or premises on which the same is located, in which there exists any of the following listed conditions is a substandard building as defined in Section 3.411 of this article:

- (1) Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit.
- (2) Lack of or improper window screens as necessary to prevent the entry of insects.
- (3) Lack of or improper kitchen sink in a dwelling unit.

*Brownfield Code of Ordinances*

- (4) Lack of hot and cold running water to plumbing fixtures in a dwelling unit.
- (5) Lack of adequate heating facilities.
- (6) Lack of or improper operation of required ventilating equipment.
- (7) Lack of minimum amounts of natural light required by the building code.
- (8) Room and space dimensions less than required by the building code.
- (9) Lack of required electrical lighting.
- (10) Dampness of habitable rooms.
- (11) Infestation of insects, vermin or rodents as determined by the health officer or his designee.
- (12) General dilapidation or improper maintenance.
- (13) Lack of connection to required sewage disposal system.
- (14) Deteriorated or inadequate foundations.
- (15) Defective or deteriorated flooring or floor supports.
- (16) Flooring or floor supports of insufficient size to carry imposed loads with safety.
- (17) Members of walls, partitions, or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (18) Members of walls, partitions, or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (19) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
- (20) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (21) Fireplaces or chimneys which list, bulge or settle due to defective material or

*Brownfield Code of Ordinances*

deterioration.

- (22) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (23) Electrical Wiring. All wiring except that which conformed with all applicable laws in effect at the time of installation, and which has been maintained in good condition and is being used in a safe manner.
- (24) Hazardous Plumbing. All plumbing except that which conformed with all applicable laws in effect at the time of installation, and which has been maintained in good condition and which is free of cross connections and siphonage between fixtures.
- (25) Hazardous Mechanical Equipment. All mechanical equipment including vents except that which conformed with all applicable laws in effect at the time of installation, and which has been maintained in good and safe condition.
- (26) Faulty Weather Protection. Weather protection which shall include but not be limited to the following:
  - (A) Deteriorated, crumbling or loose plaster.
  - (B) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
  - (C) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
  - (D) Broken, rotted, split or buckled exterior wall coverings or roof coverings.
- (27) Fire Hazard. Any building or portion thereof, device, apparatus, equipment, combustible waste, or vegetation which, in the opinion of the fire marshal or his deputy is in such a condition as to cause a fire or explosion, or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any cause.
- (28) Faulty Materials of Construction. All materials of construction, except those which are specifically allowed or approved by this article and the building code and which have been adequately maintained in good and safe condition.
- (29) Hazardous or Unsanitary Premises. Those premises on which an accumulation of

*Brownfield Code of Ordinances*

weeds, vegetation, junk, dead organic matter, debris, garbage, offal, rat harborages, stagnant water, combustible materials and similar materials or conditions which constitute fire, health or safety hazards.

- (30) Inadequate Maintenance. Any building or portion thereof which is determined to be an unsafe building as a result of improper or inadequate maintenance.
- (31) Inadequate Exits. All buildings or portions thereof not provided with adequate exit facilities as required by the building code, except those buildings or portions thereof whose exit facilities conformed with all applicable laws at the time of their construction, and which have been adequately maintained and increased in relation to increase in occupant load, alteration or addition, or any change in occupancy. When an unsafe condition exists through lack of or improper location of exits, additional exits may be required to be installed.
- (32) Inadequate Fire Protection or Fire Fighting Equipment. All buildings or portions thereof which are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by this article, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.
- (33) Improper Occupancy. All buildings or portions thereof occupied for living, sleeping, cooking or dining purposes which are not designed or intended to be used for such occupancies.

**Sec. 3.416 Notices**

(a) Commencement of Proceedings. Whenever the building inspector or his designee has inspected or caused to be inspected any structure and has found and determined that such structure is a substandard structure, he may commence proceedings to require the vacation, relocation of occupants, securing, repair, removal, or demolition of the structure.

(b) Notice. The building inspector or his designee shall make a diligent effort to discover the name and address of each owner, mortgagee or lien holder of the structure as found in the real property records of the county clerk. He shall then issue a notice to each owner, mortgagee or lien holder which shall contain the following:

- (1) The street address and legal description sufficient for identification of the premises upon which the structure is located.

- (2) A statement that the building inspector believes the structure to be in violation of the terms of the dangerous building article with a brief and concise description of the conditions found to render the structure in violation. The building inspector may comply with this article by attaching a copy of any report of the inspection of the structure to the notice.
- (3) A statement advising that a hearing has been set before the zoning board of adjustment as follows:

"You are hereby notified that a hearing will be held before the Zoning Board of Adjustment of the City of Brownfield, Texas, at \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ p.m. The purpose of the hearing is to make a final determination as to whether the structure described is in violation of the Dangerous Building Ordinance of the City of Brownfield, Texas. You may be present at the hearing and may be, but need not be represented by legal counsel. You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You may request the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by filing an affidavit thereof with the Zoning Board of Adjustment. At the time of the hearing, you (whether you be the owner, lien holder, or mortgagee) will be required to submit at the hearing proof of the scope of any work that may be required to comply with the ordinance and the time it will take to reasonably perform the work. In the event you seek to obtain more than thirty (30) days to complete the project, you will be required to reasonably establish that the work cannot be completed within thirty (30) days. In the event you seek to obtain more than ninety (90) days to complete the work, you will be required to submit a detailed plan and time schedule for the work at the hearing and establish that the work cannot be completed within ninety (90) days."

Following the hearing the zoning board of adjustment may issue an order requiring the vacation, relocation of occupants, securing, repair (with or without vacation), removal, or demolition of the structure if the zoning board of adjustment finds that any of the following conditions exist:

- (A) The structure in question is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;
- (B) The structure is unoccupied by its owners, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered

or used by children;

- (C) If boarded up, fenced or otherwise secured in any manner, the building constitutes a danger even though secured from entry or the means used to secure the building are inadequate to prevent unauthorized entry or use of building in the manner described in (B) above;
- (D) Following entry of the order, any person affected by the order may appeal the order to the state district court for relief within thirty (30) days, and upon failure to do so within such period of time, the order shall become final.

(c) Service of Notice. The notice and any amended or supplemental notice shall be served upon the record owner, and posted on the property and one (1) copy thereof shall be served on each of the following if known to the building inspector or disclosed from official public records: the holder of any mortgage or deed of trust or other lien or encumbrance of record, the owner or holder of any lease filed of record and the holder of any other estate or legal interest (except mineral interests) filed of record in or to the building or the land on which it is located. The failure of the building inspector to serve any person required herein to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person from any duty or obligation imposed on him by the provisions of this article.

(d) Method of Service. Service of the notice shall be made upon all persons entitled thereto, either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, to each person at his address as it appears in the official records of the county clerk, any appraisal district records, or as known to the building inspector. If such certified letter is not deliverable as addressed, service may be by publication two (2) times within ten (10) consecutive days in a newspaper of general circulation within this county. If no address of any such person so appears or is known to the building inspector, then a copy of the notice shall be so mailed, addressed to such person, at the address of the building involved in the proceedings. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this section. Delivery by certified mail in the manner herein provided shall be effective service on the date of mailing.

(e) Proof of Service. Proof of service of the notice shall be certified at or near the time of service by a written declaration under penalty of perjury executed by the person effecting service, declaring the time, date and manner in which service was made. The declaration, together with any receipt card returned in acknowledgment of receipt by certified mail shall be affixed to the copy of the notice retained by the building inspector.

### **Sec. 3.417 Hearings**

Before any order is issued by the zoning board of adjustment or any work is performed by the building inspector on any building or part thereof which is in violation of this article, except under Section 3.421 dealing with emergency remedies, there shall first be a hearing conducted by the zoning board of adjustment.

**Sec. 3.418 Standards to be Followed**

(a) The following standards shall be followed by the zoning board of adjustment in ordering the repair, vacation, relocation of occupants, demolition or removal of a structure:

- (1) The zoning board of adjustment may issue an order requiring the vacation, relocation of occupants, securing, repair (with or without vacation), removal, or demolition of the structure if the zoning board of adjustment finds that any of the following conditions exist:
  - (A) the structure in question is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety and welfare;
  - (B) that regardless of its structural condition, the structure is unoccupied by its owners or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
  - (C) is boarded up, fenced or otherwise secured in any manner if:
    - (i) the building constitutes a danger even though secured from entry; or
    - (ii) the means used to secure the building are inadequate to prevent unauthorized entry or use of the manner described in (B) above.
- (2) If the zoning board of adjustment finds that the structure is in violation, then the board shall require the owner, lien holder, or mortgagee of the building to within thirty (30) days:
  - (A) secure the structure from unauthorized entry; or
  - (B) repair, remove or demolish the structure within thirty (30) days, unless the owner or lien holder establishes at the hearing that the work cannot be reasonably performed within thirty (30) days.
  - (C) If the owner establishes that the work cannot be reasonably completed in thirty

(30) days and the zoning board of adjustment determines that additional time is necessary, the board shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lien holder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed.

- (D) The zoning board of adjustment shall not allow an owner, lien holder or mortgagee more than ninety (90) days to repair, remove or demolish the structure or fully perform all work required to comply with the order unless the owner, lien holder or mortgagee:
  - (i) submits a detailed plan and time schedule for the work at the hearing; and
  - (ii) establishes at the hearing that the work cannot be reasonably be completed within ninety (90) days because of the scope and complexity of the work.
- (E) If the zoning board of adjustment allows the owner, lien holder, or mortgagee more than ninety (90) days to complete any part of the work required to repair, remove or demolish the structure, the board shall require the owner, lien holder, or mortgagee to regularly submit progress reports to the building inspector to demonstrate that the owner, lien holder, or mortgagee has complied with the time schedules established for commencement and performance of the work. The order may require that the owner, lien holder or mortgagee appear before the building inspector to demonstrate compliance with the time schedules.
- (F) In the public hearing to determine whether a structure complies with the standards set out in the this article, the owner, lien holder or mortgagee has the burden of proof to demonstrate the scope of work that may be required to comply with the this article and the time it will take to reasonably perform the work.

**Sec. 3.419 Right to Appeal**

Any person affected by any order may seek to appeal the order within thirty (30) days to the state district court for relief and upon failure to do so within such period of time such order shall be final.

**Sec. 3.420 Findings of Fact**

Following the hearing, any person wishing to appeal the decision of the building standards zoning board of adjustment shall request that the zoning board of adjustment make such findings



as the board believes necessary to support its order. In the event a party fails to request such findings within thirty (30) days, it shall be presumed that the zoning board of adjustment made such findings as are necessary to support its decision.

**Sec. 3.421     Emergency Abatement**

In the event that a structure constitutes a substantial and immediate hazard to the public health, safety and welfare as a result of fire, civil disobedience or natural disaster to the extent that an imperative public need exists to abate a portion or all of the structure, the building inspector may immediately, without prior hearing before the standards zoning board of adjustment abate that portion of the structure which causes the hazard provided:

- (1) The building inspector has made a reasonable effort to determine the name and location of each owner and lien holder or mortgagee and has attempted to give each owner, lien holder and mortgagee notice of the impending action by the building inspector. The notice may be given orally and a record shall be kept of the time and date of each communication.
- (2) The structure shall be abated only to the extent necessary to remove the immediate hazard to the public health, safety and welfare. The structure shall then be treated as any other substandard structure and additional abatement may be done only after notice and hearing as provided in Sections 3.416 and 3.417.

**Sec. 3.422     Procedures for Conducting Meeting**

- (a) Record. A record of the entire proceedings shall be made by tape recording or by any other means of permanent recording determined to be appropriate by the zoning board of adjustment.
- (b) Oaths - Certification. In any proceedings under this article, any member of the zoning board of adjustment has the power to administer oaths and affirmations and to certify to official acts.
- (c) Reasonable Dispatch. The zoning board of adjustment and its representatives shall proceed with reasonable dispatch to conclude any matter before it.

**Sec. 3.423     Conduct of Hearing**

- (a) Rules. Hearings need not be conducted according to the technical rules relating to evidence and witnesses.
- (b) Oral Evidence. Oral evidence shall be taken only on oath or affirmation.

(c) Admissibility of Evidence. Any relevant evidence shall be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions in courts of competent jurisdiction in this state.

(d) Exclusion of Evidence. Irrelevant and unduly repetitious evidence shall be excluded.

(e) Rights of Parties. Each party shall have the following rights, among others:

(1) To call and examine witnesses on any matter relevant to the issues of the hearing;

(2) To introduce documentary and physical evidence;

(3) To cross-examine opposing witnesses on any matter relevant to the issues of the hearing;

(4) To impeach any witness regardless of which party first called him to testify;

(5) To rebut the evidence against him; and

(6) To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

#### **Sec. 3.424 Method and Form of Decision**

(a) Hearing Before the Zoning Board of Adjustment. Where a contested case is heard before the zoning board of adjustment no member thereof who did not hear the evidence or has not read the entire record of the proceedings shall vote on or take part in the decision.

(b) Form of Decision. The decision shall be in writing and may contain findings of fact, it shall contain a determination of the issues presented, and the requirements for compliance. A copy of the decision shall be delivered to each party personally or sent to each party by United States Mail, certified, return receipt requested, postage prepaid.

(c) Effective Date of Decision. The effective date of the decision shall be as stated therein.

#### **Sec. 3.425 Filing and Delivery of Order**

Within ten (10) days after the date the order is issued, the building inspector shall:

- (1) file a copy of the order in the office of the city secretary;
- (2) serve a copy of the order upon each owner, mortgagee and lien holder by certified mail, return receipt requested; and
- (3) publish in a newspaper of general circulation in the City of Brownfield a notice containing:
  - (A) the street address and legal description of the property;
  - (B) the date of the hearing;
  - (C) a brief statement indicating the results of the order; and
  - (D) instructions stating where a complete copy of the order may be obtained.

**Sec. 3.426 Enforcement**

(a) General. After any order of the zoning board of adjustment pursuant to this article has become final, no person to whom any such order is directed shall fail, neglect, or refuse to obey such order. Any such person who fails to comply with such an order is guilty of a misdemeanor.

(b) Failure to Obey Order. If after any order of the zoning board of adjustment made pursuant to this article has become final the person to whom such order is directed shall fail, neglect or refuse to obey such order, the building inspector may:

- (1) cause such person to be prosecuted under Section 3.422; or
- (2) take any appropriate action to abate such structure pursuant to the order.

(c) Posting.

- (1) Notice Contents. The building inspector shall, if ordered by the zoning board of adjustment after a hearing pursuant to Section 3.424, cause the building described in such notice and order to be vacated by posting at each entrance thereto a notice reading substantially as follows:

SUBSTANDARD STRUCTURE  
DO NOT OCCUPY

It is a misdemeanor punishable by up to a  
\$2,000 fine to occupy this structure, or to remove  
or deface this notice.

Building Inspector  
City of Brownfield

- (2) Failure to Obey Notice. No person shall occupy any building which has been posted as specified in this section. No person shall remove or deface any such notice so posted until the repairs, demolition, or removal ordered by the zoning board of adjustment have been completed.

**Sec. 3.427 Additional Remedies**

In addition to any other remedy herein provided, if a party fails to comply with an order of the board within the time provided then the building inspector may take such action as is required by the order.

**Sec. 3.428 Repairs by City**

If after the expiration of the period of time allowed in an order of the zoning board of adjustment, the person to whom the order was directed shall fail, neglect or refuse to obey such order, then the building inspector may repair the building to the extent necessary to meet the minimum requirements of this article at the expense of the city. Costs incurred shall be assessed against the land on which the building stands or is attached and a Notice of Lien shall be filed as provided by Section 214.0015(d) of the Texas Local Government Code. The Notice of Lien shall be substantially in the form required by this article or by statute.

**Sec. 3.429 Civil Penalties**

At the time of the hearing provided by this article, the zoning board of adjustment may provide that if the person to whom the order is directed shall fail, neglect or refuse to obey any order, then a civil penalty shall be assessed against the property. The zoning board of adjustment may set the amount of the penalty at the time of the hearing in an amount not to exceed \$1,000.00 per day if the property is not homestead property and in an amount not to exceed \$10.00 per day if the property is occupied by the owner as his homestead. The civil penalties shall be assessed against the land on which the building stands or stood and a Notice of Lien shall be filed as provided in Chapter 214.0015(d) of the Texas Local Government Code. The Notice of Lien shall be substantially in the form required by this article or by statute.

**Sec. 3.430 Interference with Work Prohibited**

It shall be a misdemeanor for any person to obstruct, impede or interfere with any officer, employee, contractor or authorized representative of the city, or with any person who owns or holds any estate or interest in any building which has been ordered repaired, vacated or demolished under the provisions of this article, whenever such officer, employee, contractor or authorized representative of the city, person having an interest or estate in such building or structure, is demolishing any such building pursuant to the provisions of this article, or is performing any necessary act preliminary to or incidental to such work or authorized or directed pursuant to this article.

**Sec. 3.431 Performance of Repair, Demolition and Other Work**

When any demolition or other work is to be done pursuant to Section 3.428 of this article, the building inspector may/shall cause the work to be accomplished by either city personnel or by private contract.

**Sec. 3.432 Recovery of Civil Penalties, Cost of Repair, Demolition or Other Work**

(a) Account of Expense, Filing of Statement. The building inspector shall keep an itemized account of the expense incurred by the city for administrative cost, demolition or removal of any structure and the cleaning of the lot where the structure was located. Upon completion of this abatement, the building inspector shall prepare a Notice of Lien specifying the work done, and the total cost of the work, a description of the real property upon which the structure was located, and the names and addresses of the persons entitled to notice.

(b) Lien of Assessment.

- (1) Priority. Immediately upon recordation, the amount assessed shall be payable, and the assessment shall be a lien against the parcel of land where the work was performed and against any remaining improvements thereon. The lien shall be subordinate only to tax liens and liens to secure the cost of street improvements after they have been so made.
- (2) Interest. All such assessments remaining unpaid after thirty (30) days from the date of recordation shall become delinquent and shall bear interest at the rate of ten percent (10%) per annum from and after said date.
- (3) Foreclosure. For any such expenditures and interest, suit may be instituted and foreclosure had in the name of the City of Brownfield. A certified copy of the lien and billing statements shall be prima facie proof of the amount expended in any such work.

- (4) Repayment. All money recovered by payment of the charge or assessment, including any interest thereon, or from the sale of the property at foreclosure sale shall be paid to the building inspector who shall credit the same to the general fund.

(Ordinance 1824 adopted 1/7/99)

## **ARTICLE 3.500 MECHANICAL CODE**

### **Sec. 3.501 International Mechanical Code Adopted**

A certain document, three (3) copies of which are in file in the office of the city secretary, being marked and designated as the International Mechanical Code, 2012 edition, including appendix chapter A, as published by the International Code Council, be and is hereby adopted as the mechanical code of the city for regulating and governing the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of mechanical systems; providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said mechanical code on file in the office of the city secretary are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in Section 3.502 of this article.

### **Sec. 3.502 Additions and Deletions**

The following changes are hereby made to the published version of the 2012 edition of the International Mechanical Code on file in the office of the city secretary. The changes contained herein shall be construed as a part of the published code, and in the event of a conflict between these provisions and their corresponding provisions in the published code, these provision shall control.

(Ordinance 2034 adopted 1/17/13)

*Section 101.1* Insert: City of Brownfield.

*Brownfield Code of Ordinances*

*Section 104, Duties and Powers of Code Official*, is hereby amended as follows:

*Add Section 104.9 Requirements Not Covered by Code*

Any requirement necessary for the safety, strength or stability of an existing or proposed mechanical installation, or for the safety of the occupants of a building or structure, not specifically covered by this article, shall be determined by the plumbing, gas and mechanical board.

*106.5.2 Permit Fees*: Insert: See Appendix A Brownfield City Code.

*Delete: Section 106.5.3 Fee Refunds.*

## **108 VIOLATIONS**

*Section 108.4* Substitute: See Chapter 1, Section 1.109 Brownfield City Code.

*Section 108.5* Insert: \$1.00 to \$2,000.00 in blanks in the last sentence. Add sentence to the end of the paragraph. "Reinspection fees shall be charged as established in Appendix A of the Brownfield City Code."

## **109 MEANS OF APPEAL**

### **109.1 Application for appeal, pertaining to appeals.**

A fee of ten dollars (\$10.00) shall accompany such notice of appeal.

(Ordinance 1944 adopted 9/21/06)

*Add Section 109.1.2 to read as follows:*

#### **109.1.2 DELIVERY OF NOTICE**

Delivery may be accomplished by personal delivery to the owner or the owners' agent or contractor or by certified mail return receipt requested or by posting a notice at the entrance of the structure. A timely properly perfected appeal shall stay the decision of the plumbing inspector until such time as a decision is rendered by the board.

(Ordinance 1944 adopted 9/21/06; Ordinance 2034 adopted 1/17/13)

*Reword Section 109.2 to read as follows:*

### **109.2 MEMBERSHIP OF BOARD**

There is hereby created a six member plumbing, gas and mechanical board consisting of:

- (1) A licensed master plumber
- (2) A licensed journeyman plumber
- (3) A building contractor
- (4) The city manager
- (5) A designated representative of the South Plains Public Health District
- (6) Landscape irrigator

The plumbing inspector shall be an ex-officio, nonvoting member of said board.

Members of the board shall be appointed by the city council and shall hold office for terms of 2 years, or until their successors are appointed and have qualified. All members are subject to removal by the city council with or without cause.

The city manager and the designated representative of the South Plains Public Health District shall be eligible to serve only so long as they hold office.

A majority of the board shall constitute a quorum for the transaction of business.

*Reword Section 109.2.6 to read as follows:*

### **109.2.6 COMPENSATION OF MEMBERS**

All members shall serve without compensation.

*Add Section 109.8 to read as follows:*

### **109.8 ADVISORY RESPONSIBILITY OF THE BOARD**

The board shall submit to the city council such recommendations for the improvement and revision of this code as it may from time to time deem necessary and proper in light of the



*Brownfield Code of Ordinances*

development of new materials, methods or techniques which would result in a better and or more economical installation. All requests for use of materials or methods not covered in this code shall be fully supported by factual evidence, or prior approval, from a recognized testing agency or such impartial qualified authority acceptable to the board.

*Section 202, Definitions*, Add “Board of appeals shall be the plumbing board.”

*Mechanical Official*. The same as the city inspector for building, plumbing, gas, mechanical and electrical inspector.

(Ordinance 1944 adopted 9/21/06)

**ARTICLE 3.600 ELECTRICAL CODE\*(3)**

**Sec. 3.601 National Electrical Code Adopted**

All electrical equipment installed or used within the city and within the territory served by the city’s municipal power and light and all installations of electrical equipment shall be reasonably safe to persons and property and in conformity with the standards provided in the 2011 edition of the National Electrical Code of the National Fire Protection Association and with the provisions of this article and applicable state statutes and any rules and regulations issued by authority thereof. A copy of said National Electrical Code referred to herein is on file in the office of the city secretary for reference and inspection and the same is hereby adopted and made a part of this article to the same extent as if set out herein in full. In the event of a conflict between the terms of this article and the 2011 edition of the National Electrical Code, the terms of this article shall control. (Ordinance 2039 adopted 5/16/13)

**Sec. 3.602 Definitions**

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

Board. The electrical board of the city.

City. The City of Brownfield and where applicable the territory served by Brownfield Municipal Power and Light.

Installations. All electrical work of any nature performed on, in or near consumer’s premises.

(Ordinance 1941 adopted 7/20/06)

**Sec. 3.603     Applicability**

The provisions of this article shall apply within the city limits of Brownfield, Texas, and in the territory served by Brownfield Municipal Power and Light as established by the Texas Public Utility Commission regardless of the source of electrical supply.

**Sec. 3.604     Exemption from Chapter Provisions**

Nothing contained within this article shall be construed to prevent the issuance of permits to homeowners who wish to perform electrical repair work on the house in which they reside. A homeowner affidavit must be signed by the owner stating that he is the current resident of the property. Nothing herein shall be construed to prevent the issuance of permits to owners who erect a dwelling in which to live, provided however, that no permit shall be issued under this provision until the owner submits an affidavit showing his ownership of the premises and his bona fide intention to live therein; provided further that in the event of new construction, no person shall be issued a permit under the provisions of this section more frequently than once each two (2) calendar years.

**Sec. 3.605     Collection of Fees**

All fees provided for in this article shall be collected by the city secretary or assistants and handled as all other permit fees collected.

**Sec. 3.606     Types of Service**

(a) The City of Brownfield shall furnish electricity, upon proper application, in all voltages that are standard for the industry in this area.

(b) No residential customer shall be served with three phase electrical service except as follows:

- (1) Where three phase lines have already been installed adjacent to the property; and
- (2) With motors of 5 horsepower or larger.

(c) No commercial customer shall be served with three phase electrical service except as follows:

- (1) Where three phase lines have already been installed adjacent to the property; and

- (2) With motors of 7-1/2 horsepower or larger.

**Sec. 3.607 One Dwelling or Commercial Building Per Electric Meter**

No electric meter connected by the City of Brownfield shall serve more than (1) one single-family residential dwelling or (1) one commercial building. The electrical inspector shall determine whether an accessory building is an incidental use not requiring an additional meter.

**Sec. 3.608 Electrical Inspector-Office Created**

There is hereby created the office of the electrical inspector.

**Sec. 3.609 Same-Appointment**

The electrical inspector shall be appointed by the city manager with the approval of the city council and shall hold office until a successor is appointed and duly qualified. Assistant inspectors may be appointed by the city manager whenever occasion demands.

**Sec. 3.610 Same-Qualifications**

The electrical inspector shall be a competent person of good moral character with knowledge of current and approved methods and practices relating to electrical installations.

**Sec. 3.611 Same-Compensation**

The compensation of the electrical inspector and assistants shall be fixed by the city manager.

**Sec. 3.612 Same-Powers; Generally**

(a) The electrical inspector shall have the power to inspect all installations, alterations, and repairs of electrical work done, made or performed pursuant to the provisions of this article.

(b) The electrical inspector shall, upon determining that unsafe, improper or unlawful installations exist, immediately notify the owner of said premises, his agents, and any electrician performing work on the premises in writing of the nature of the violation, specifying the deficiency. The electrical inspector shall, if he believes the public welfare is endangered, order the electricity supply to said premises to be discontinued.

**Sec. 3.613 Right of Entry**

Whenever necessary to make an inspection to enforce any of the provisions of this article, or

*Brownfield Code of Ordinances*

when there is reasonable cause to believe that there exists in any structure or upon any premises, any condition which violates this article, the electrical inspector or his assistants may enter such structure or premises at all reasonable times to inspect the same or to perform any duty imposed by this article; provided that if such structure or premises be occupied, he shall first make a reasonable effort to locate the owner, or persons having charge or control of the structure or premises, and request permission to enter. If such entry is refused, the electrical inspector or his authorized assistants shall obtain an administrative search warrant as provided in Section 18.05 of the Texas Code of Criminal Procedure.

**Sec. 3.614     Records**

The electrical inspector shall keep or cause to be kept a record of permits, licenses and inspections required under this article and shall also keep a record of all condemnations of electrical installations.

**Sec. 3.615     Right to Stop Work**

(a) The electrical inspector shall stop the installation, alteration, operation or repair of any electrical work on or in premises whenever, in the inspector's opinion, the work is being done in a reckless, careless or unsafe manner or in a manner which violates the provisions of this article.

(b) Upon determining that particular work should stop, the inspector shall post a notice to that effect on the premises and thereafter no person shall proceed with the installation until the inspector has cancelled the stop work notice. It shall be unlawful for anyone to remove a stop work notice posted on a job other than the electrical inspector or his assistants.

**Sec. 3.616     Removal From Office**

The electrical inspector and his assistants are at will employees of the City of Brownfield.

(Ordinance 1823 adopted 1/7/99)

**Sec. 3.617     Certificates and Licenses-Possession Required**

No person shall engage in the occupation or work as a master or journeyman electrician without having a current license in the possession of such individual. (Ordinance 1871 adopted 6/6/02)

**Sec. 3.618     Same-Issuance**

Certificates of qualification or licenses issued under the provisions of this article shall be issued by the state to qualified applicants.

**Sec. 3.619 Same-Duration**

All certificates of qualification and licenses issued under the provisions of this article shall be valid for one year from the date of issuance.

(Ordinance 1921 adopted 1/3/05)

**Sec. 3.620 Same-Transferability**

The certificate of qualification or licenses issued pursuant to the provisions of this article shall not be transferred or assigned. (Ordinance 1823 adopted 1/7/99)

**Sec. 3.621 Same-Revocation**

All licenses or certificates shall be subject to revocation pursuant to the regulations and procedures adopted by the Texas Department of Licensing and Regulations. (Ordinance 1921 adopted 1/3/05)

**Sec. 3.622 Electrical Board-Created; Composition; Compensation**

There is hereby created an electrical board of the city which shall consist of the following members who shall serve without compensation: two (2) master electricians, the city manager and two (2) other members, one of whom must be from the electric utility and another who holds either a master or journeyman license. Members of the board at the time of adoption of this article who do not meet the qualifications stated in this section shall be allowed to serve the remainder of their terms and until such time as their successor is appointed. (Ordinance 1842 adopted 6/1/00)

**Sec. 3.623 Same-Appointment**

Members of the board shall be appointed by the city council for the term of two (2) years. Vacancies shall be filled by appointment for the unexpired term of the departed member.

**Sec. 3.624 Same-Quorum**

A quorum shall consist of three (3) members of the board; two of whom must hold either a master's or journeyman's license.

**Sec. 3.625 Same-Removal of Board Members**

*Brownfield Code of Ordinances*

A member of the board may be removed therefrom by the city council upon a showing of good cause.

**Sec. 3.626 Same-Secretary**

The city secretary shall serve as secretary to the board and shall keep a complete record of all proceedings of the board.

**Sec. 3.627 Same-Powers, Duties; Generally**

(a) The board shall meet as soon after appointment as possible and select a chairman; it shall thereafter meet at least once each quarter or as often as necessary.

(b) The board shall submit to the city council recommendations and suggestions for the improvement, enforcement and administration of this article.

(c) Any person, firm or corporation aggrieved by any interpretation of this article or the National Electrical Code or by any decision or ruling by the electrical inspector under this article shall have the right to make an appeal to the electrical board.

(Ordinance 1823 adopted 1/7/99)

**Sec. 3.628 Electrician's Certificates**

Persons wishing to engage in the electrical business must conform to the provisions of the Texas Department of Licensing and Regulations. Unless specifically authorized by other provisions of this article, unlicensed electrical workers or apprentices may not perform electrical installations unless under the immediate supervision of a master or journeyman electrician who is present at the job site. (Ordinance 1921 adopted 1/3/05)

**Sec. 3.629 Same-Insurance; Amount; Conditions**

Before a permit can be issued to an electrical contractor, the applicant shall possess insurance as required by law. (Ordinance 1941 adopted 7/20/06)

**Sec. 3.630 Escort**

All oversize loads being transported through the City of Brownfield shall stop at the city limits and call for an escort. (Ordinance 1823 adopted 1/7/99)

**Sec. 3.631 Permits-Required**

(a) No person shall begin any electrical installation or begin any work installing, erecting, repairing or altering material, wiring fixtures of any other apparatus to be used for the utilization of electricity for light, heat or power in or on any building or premises covered by this article without first obtaining a permit from the office of the city secretary; provided however, that no permit shall be required for minor work such as repairing flush and tumbler switches, replacing fuses and breakers or changing lamp sockets and receptacles. Prior to the issuance of a permit, or in cases in which there is doubt as to whether a permit is required, one (1) set of electrical plans and specifications shall be submitted to the building official for review. The building official shall have discretion to determine whether a given job qualifies as minor work.

(b) A permit may not be transferred from one electrician to another.

(Ordinance 1834 adopted 8/5/99)

**Sec. 3.632 Same-Application; Issuance**

The city secretary or her designee shall issue a permit only to persons making electrical installations in their own home and persons holding the required business license issued by the Texas Department of Licensing Regulations. (Ordinance 1921 adopted 1/3/05)

**Sec. 3.633 Inspections-Required**

(a) The permit fee for renovations and new construction shall be as provided for in the fee schedule found in the appendix of this code.

(b) If by reason of faulty work, negligence or omission or for any other reason a subsequent inspection must be made in excess of the rough-in and final inspection a charge as provided for in the fee schedule found in the appendix of this code shall be made for each inspection.

(Ordinance 1834 adopted 8/5/99)

**Sec. 3.634 Same-Inspection Fees**

(a) In every case in which a permit is required by this article to undertake electrical work in, on or about any new construction or building renovation within the city, the permit fee charged shall be as provided for in the fee schedule found in the appendix of this code. New construction for the purpose of this section shall mean the erection of a new building or structure or the erection of any addition to an existing building or structure, which has not previously been supplied with electric current. Building renovation for the purpose of this section shall mean the renovation of any existing building or structure where the proposed electrical work amounts to a

total rewiring of the existing building or structure.

(b) If by reason of faulty work, negligence or omission or for any other reason, a subsequent inspection must be made in excess of the rough-in and final inspection, a charge as provided for in the fee schedule found in the appendix of this code shall be made for each inspection.

(Ordinance 1831 adopted 5/20/99)

**Sec. 3.635 Same-Notice**

Permit holders whose installations are ready for inspection shall give the office of the electrical inspector at least twenty-four (24) hours notice prior to the time of the inspection. Saturdays, Sundays and holidays shall not be a part of the twenty-four hour period.

**Sec. 3.636 Same-Concealed Wiring**

(a) All wiring shall be inspected before concealment. Any person covering or concealing wires before inspection shall be guilty of a misdemeanor.

(b) All structures moved into the city shall meet the provisions of this article and shall be subject to inspection. The structure owner shall remove adequate portions of the walls and ceilings to allow any required inspection. Structure owners may request inspection prior to placement within the city service area provided at least 48 hours advanced notice is given. In addition to all other applicable fees, there shall be charged for out of city inspections the fees as provided for in the fee schedule found in the appendix of this code.

**Sec. 3.637 Underwriters Laboratories**

Installation of electrical equipment bearing the seal of approval of Underwriters Laboratories, Inc. shall be prima facie evidence that such equipment is reasonably safe to persons and property.

**Sec. 3.638 Electric Meter Deposits Required**

Electric meters shall be installed by the City of Brownfield only upon payment of prescribed deposits. The amount of the meter deposit shall be determined by the city manager and shall be based on the estimated monthly bill or other pertinent factors. The minimum deposit for a residence is set forth in the fee schedule in the appendix of this code and for a commercial or industrial customer as set forth in the fee schedule in the appendix of this code. When a customer terminates electric service the deposit shall be refunded after any unpaid utility bills including, water, sewer, garbage and electric bills have been deducted. No deposit shall be refunded to



anyone other than the person making the deposit or that person's legal heirs. No interest shall be paid by the City of Brownfield on the deposits.

**Sec. 3.639 Service Entrance Conduits**

All service entrances shall be in a minimum of one and one-quarter inch (1 1/4") rigid metal or EMT conduit with an approved type weatherhead. In case the service mast is used for the support of service drop conductors it shall be in a minimum of two inch (2") rigid metal conduit.

**Sec. 3.640 Location of Weatherhead**

(a) When new service is furnished by the city, the electrician and/or contractor will locate the weatherhead so it will be accessible to the nearest city power pole without having to pass over adjacent property.

(b) Each electrical meter shall be located in clear view on the exterior wall of any building or residence so that it can be easily serviced and read. A meter shall not be enclosed inside of any part of a building.

(c) The City of Brownfield shall furnish, install and maintain overhead service lines to the meter base when it is located as provided in this section of this article. Underground service lines may be used, however, the installation, cost and maintenance of such underground service line is the responsibility of the customer.

**Sec. 3.641 Wiring Generally**

(a) Service entrance conductors shall not be smaller than No. 4 A.W.G. copper. Entrance wires shall be of sufficient size to carry the capacity of the amperage rating of the panel that is installed.

(b) There shall be a three wire 120/240 volt service on all residential installations, except residences of 500 square feet or less, where only two circuits are required.

(c) Electric range wire shall be no smaller than three No. 6 A.W.G. copper conductors complete with approved receptacle.

(d) Built-in range surface units, griddle units, oven(s) will be considered as separate appliances and conductors to each such unit shall be no smaller than No. 10 A.W.G. copper with an outlet box with either an approved receptacle or a suitable cover and cable clamp to support the cable leading to the unit.

*Brownfield Code of Ordinances*

- (e) Each automatic clothes washing machine shall be on a circuit supplying no other load.
- (f) Any change in electric service or change to a new type of service shall require an inspection before the electric utility may connect service.
- (g) In the event floor space is added to an existing building or residence or additional wiring is installed, the electrical inspector may require that the old wiring be brought up to code specifications, if in the inspector's opinion the wiring creates a hazard that might endanger life or property. Any new wiring or service equipment and service conductors added to an existing system shall be in accordance with this article; however, in residences one circuit may be added without changing the service point if the circuit consists only of one light socket of standard base or one convenience outlet of 1 1/2 amperage rating, or both, provided the service point to the panel is in conduit.
- (h) No keyless pull chain lamp holders shall be allowed in any installation in any structure.
- (i) Aluminum wire may be used in any installation, provided the size is increased one size over the size copper wire required in this section, and further provided that in no instance shall aluminum wire smaller than No. 8 be used. Any wiring terminated to a meter base shall be copper.
- (j) An electric dryer of 120/240 volts shall be wired with three No. 10 A.W.G. copper conductors or larger if the load requires, with approved dryer type receptacle.
- (k) The size of wire from bottom of the meter base to the protective disconnect box for a two wire 120 volt installation shall be sized to correspond to the amperage rating of the switch.
- (l) No wiring installed for use of 120/240 volts or greater shall be smaller than No. 12 A.W.G.
- (m) All underground services shall have a disconnect at point of attachment to city power. (Meter in alley or service entrance at pole.)
- (n) All underground electrical services installed in an alley shall be placed in the space midway between the spaces reserved for gas and sewer.

**Sec. 3.642 Bathroom, Kitchen, Closets, Attic Lights, Etc.; Light Switches**

All lights in bathrooms, toilets, kitchens and laundry rooms shall be controlled by wall switches, located where they are not readily accessible from the tub or shower.

**Sec. 3.643 Bathroom and Kitchen Fixtures**

All metal fixtures installed in bathrooms and kitchens, except in ceilings, shall be grounded; however, they may be grounded to their neutral wire.

**Sec. 3.644     Pendant and Drop Light Cords**

The use of ordinary twisted, cotton-covered lamp cord type "C" for pendants or drop lights is hereby prohibited and in lieu thereof reinforced or portable cord not smaller than No. 16 A.W.G. gauge shall be used.

**Sec. 3.645     Appliance Circuits**

(a) Receptacle outlets for electric irons, percolators, toasters and other electric heating devices in kitchens shall be on a separate circuit from the light fixture outlets. No more than two duplex outlets or four single split wired outlets shall be on a circuit when a three wire circuit is used and the wires creating the circuit shall be no smaller than No. 12 A.W.G. copper.

(b) All receptacles in breakfast rooms, dining rooms and laundry rooms shall be on a separate circuit from the light fixture outlets. No more than four duplex outlets or eight single split wired outlets shall be on a circuit when three wire circuit is used and the wires creating such circuit shall not be smaller than No. 12 A.W.G. copper.

**Sec. 3.646     Outlets**

(a) In residential installations, no more than eight (8) current consuming outlets shall be installed per circuit and the wires creating the circuit shall not be smaller than No. 12 A.W.G. copper.

(b) In commercial installations, there shall not be more than four (4) current consuming outlets per circuit, and the conductor forming such circuits shall not be smaller than No. 12 conductor. Total wattage load for each of these circuits shall not exceed eighty (80) percent of the rated current capacity of conductor used.

(c) There shall not be more than (6) six current consuming outlets per circuit in circuits requiring ground fault circuit protection.

**Sec. 3.647     Back-to-Back Installations**

Convenience outlets in any room may be connected back-to-back to another convenience outlet provided that not more than four (4) convenience outlets shall be allowed on a kitchen circuit.

**Sec. 3.648     Grounding of Electric Food Waste Disposal Units and Automatic Washers**

Ground wires shall be installed for electric food waste disposal and automatic washers; however, these appliances may be grounded to the neutral conductor if same is an unbroken ground conductor connected to an approved grounded water pipe or driven ground rod. Additionally, where the maximum voltage to ground does not exceed one hundred fifty (150) volts, or where the appliance is served by 120/240 volt, 3-wire branch circuits, they may be grounded by connection to the grounded circuit conductors. However, if the circuit is for stationary electrically heated appliances the grounded circuit conductors shall not be smaller than No. 10 A.W.G. copper.

**Sec. 3.649     Use of Non-Metallic Sheathed Cable**

Non-metallic sheathed cable may be used in any electrical installation in residential dwellings of up to six families so long as the structure does not exceed two stories.

(Ordinance 1823 adopted 1/7/99)

**Sec. 3.650     When Rigid Conduit Required**

(a) In public and commercial buildings and apartments constructed for more than six families, all wiring must be in rigid conduit; however metallic or non-metallic tubing or metallic or non-metallic raceway may be approved by electrical inspector for certain classes of construction. (Ordinance 1969 adopted 2/7/08)

(b) All underground electrical services installed in a public right-of-way shall be in rigid metal conduit and installed at 90 degrees to meter pedestal. (Ordinance 2039 adopted 5/16/13)

**Sec. 3.651     Location of Fuse Panels and Circuit Breakers**

Fuse panels or circuit breakers shall be located where they are readily accessible. They shall not be placed in water heating closets, bathrooms or clothes closets. Additionally, fuse panels or circuit breakers shall not be located in other storage areas where stored materials will hinder accessibility.

**Sec. 3.652     Type "S" Fuses and Circuit Breakers Required**

Type "S" fuses, (fustats and adaptors) shall be used in all plug fusible installations; however, the ampere rating must be no larger than the ampere rating of the conductor used. Circuit breaker rating shall not be larger than ampere rating of the conductor used.

**Sec. 3.653 Radio and Television Antennas - Generally**

- (a) Outdoor antenna, counterpoise and lead-in conductors shall be securely supported so as to avoid contacts with conductors of other systems.
- (b) Outdoor antenna, counterpoise and lead-in conductors from an antenna to a building shall not cross over electric light or power circuits and shall be kept away from all such circuits so as to avoid the possibility of accidental contact.
- (c) Antenna and counterpoise conductors shall not be installed where they cross under electric light or power conductors, however, if conditions warrant, the electrical inspector may grant exceptions to this requirement.
- (d) All metal antenna masts shall be grounded by the approved method.

**Sec. 3.654 Radio and Television Antennas - Self-Supporting**

Outdoor antenna, such as vertical rods or dipole structures, shall be of non-corrodible materials and strong enough to withstand ice and wind loads. They shall be located well away from overhead conductors and power circuits which exceed one hundred fifty (150) volts to ground.

**Sec. 3.655 Approval of Wiring Materials, Devices, Etc.; Required**

All wiring materials, wiring devices, such as switches, fuses, panels, lighting fixtures, ballast, transformers, conductors, appliances, circuit breakers, and signal devices must bear the stamp of approval of the National Board of Fire Examiners of the "UL" label.

**Sec. 3.656 Soldering; Taping of Joints**

Where joints are found to be taped but not soldered or spliced with an approved mechanical device, the inspector may require all joints be untaped and left untaped until soldered or spliced with an approved mechanical device. It is further provided that such splices and tapes shall be made in an approved junction box.

**Sec. 3.657 Meters; Breaking Seal Prohibited**

- (a) It shall be unlawful to intentionally prevent electricity from passing through any electric meter used in connection with the supply of electricity to any consumer by the electric department or to prevent a meter from registering the amount of electricity passing through it, or to otherwise intentionally prevent a meter from duly registering the quantity of electricity supplied, or to divert any electricity from any wires or lines of the electric department or

*Brownfield Code of Ordinances*

otherwise intentionally use, or cause to be used any electricity, without the consent of the electric department. Additionally, whoever damages or destroys or removes any meter, or any person who retains possession of or refuses to deliver any meter or other appliance loaned to him by the electric department for the purpose of furnishing electricity shall be guilty of a misdemeanor.

(b) The presence of any device, wires or damage to a meter resulting in the diversion of electricity or prevention of proper registration by the meter shall constitute prima facie evidence of knowledge on the part of any person benefiting from the existence of such device or damage, and shall further constitute prima facie evidence of intention on the part of such person to defraud.

(Ordinance 1823 adopted 1/7/99)

**Sec. 3.658 Color Code**

All wiring shall be color coded as specified in the 2011 National Electrical Code. (Ordinance 1969 adopted 2/7/08; Ordinance 2039 adopted 5/16/13)

**Sec. 3.659 Use of Electric Welders Restricted**

No electric welder of the transformer reactance type shall be connected in the city unless it bears the name plate of the manufacturer, the current rating, and the stamp of approval of the National Board of Fire Underwriters.

**Sec. 3.660 Certificate of Compliance**

No person engaged in the business of transmission and sale of electric current to consumers shall make any connection of their transmission lines with the electric wiring and/or apparatus in any residence or other consumer installation without first having received the electrical inspector's certificate of compliance for said installation.

**Sec. 3.661 Fusing of Feeder or Branch Circuits**

No feeder or branch circuit shall be fused with larger fuses than the allowable current carrying capacity of the wire installed on said feeder or branch circuit.

**Sec. 3.662 Individual Circuit for Air Conditioners**

An individual circuit shall be provided for in structures where provisions are made for attic ventilation or roof-mounted air conditioners.

**Sec. 3.663 Temporary Installations**

The electrical inspector is hereby authorized to issue special permits for the use of knob and tube wiring in temporary installations. Temporary permits shall state specific termination date. Upon the expiration of a temporary permit, the holder thereof shall immediately discontinue the use of the installation or shall replace same with an installation complying with applicable provisions of this article.

**Sec. 3.664 Electrical Signs-Application of Provisions**

The provisions of this article shall apply to all electrical signs, outline wiring, and to all classes of lighting used for advertising purposes or to attract attention.

**Sec. 3.665 Same-Conformity to Electrical Code**

No electrical sign shall be erected, installed or connected to a source of energy within the city unless it bears an approval label of the Underwriters' Laboratory, or unless it has met the requirements set forth herein for signs and has an approval card attached by the city electrical inspector. The person erecting the sign shall provide access to all portions of the sign in order that it may be inspected.

(Ordinance 1823 adopted 1/7/99)

**Sec. 3.666 Reserved\*(4)**

**Sec. 3.667 Same-Circuits**

All lighting classified as signs, and which is installed outside the main walls of any building shall be on approved circuits.

**Sec. 3.668 Same-Removal**

When upon inspection or reinspection any sign is found to be dangerous or in an unsafe condition and the owner or user thereof fails to place such sign in safe condition after being notified to do so by the city electrical inspector within the time limits specified, the city electrical inspector shall remove such sign at the expense of the owner or user.

**Sec. 3.669 Penalty**

(a) A person who violates any provision of this article is guilty of a misdemeanor and upon conviction may be punished by a fine in accordance with the general penalty provision found in

Section 1.109 of this code for each act of violation and for each day of violation.

(b) In addition to proceeding under authority of subsection (a) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of state statutes or other ordinances.

(Ordinance 1823 adopted 1/7/99)

## **ARTICLE 3.700 FLOOD HAZARD PREVENTION\*<sup>(5)</sup>**

### **Sec. 3.701 Statutory Authorization, Findings of Fact and Statement of Purpose**

(a) Statutory Authorization. The legislature of the State of Texas has delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses.

(b) Findings of Fact:

- (1) The flood hazard areas of city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.
- (2) These flood losses are created by the cumulative effect of obstructions in floodplains which cause an increase in flood heights and velocities and by the occupancy of flood hazard areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

(c) Statement of Purpose. It is the purpose of this article to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;



*Brownfield Code of Ordinances*

- (5) Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-1)

**Sec. 3.702 Definitions**

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

Appeal. A request for a review of the floodplain administrator's interpretation of any provision of this article or a request for a variance.

Area of Shallow Flooding. A designated AO, AH or VO zone on a community's flood insurance rate map (FIRM) with a one percent chance or greater annual chance of flooding to an average depth of one to three (3) feet, where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of Special Flood Hazard. The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AE, AO, A1-99, VO, V1-30, VE or V.

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

Critical Feature. An integral and readily identifiable part of a flood protection system without which the flood protection provided by the entire system would be comprised.

Development. Any man-made change in improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

*Brownfield Code of Ordinances*

*Elevated Building.* A nonbasement building: (i) built, in the case of a building in Zones A1-30, AE, A, A99, AO, AH, B, C, X and D to have the top of the elevated floor or, in the case of a building in zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor elevated above the ground level by means of pilings, columns (posts and piers) or shear wall parallel to the floor [sic] of the water; and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-30, AE, A, A99, AO, AH, B, C, X, D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In the case of zones V1-30, VE or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building," even though the lower area is enclosed by means of breakaway walls if the breakaway walls meet the standards of Section 60.3(e)(5) of the National Flood Insurance Program regulations.

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

*Flood or Flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters or the unusual and rapid accumulation or runoff of surface waters from any source.

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

*Flood Insurance Study.* The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, water surface elevation of the base flood, as well as the flood boundary-floodway map.

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

*Flood Protection System.* Those physical structural works for which funds have been authorized, appropriated and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the areas within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood-modifying works are those constructed in conformance with sound engineering standards.

*Brownfield Code of Ordinances*

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

Functionally Dependent Use. A use which cannot perform its intended purposes unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage, or related manufacturing facilities.

Habitable Floor. Any floor usable for the following purposes, which includes working, sleeping, eating, cooking, or recreation or a combination thereof. A floor used for storage purposes only is not a "habitable floor."

Highest Adjacent Grade. The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

Levee. A man-made structure, usually an earthen embankment designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee System. A flood protection system, which consists of a levee or levees and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.

Lowest Floor. The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure usable solely for parking vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of Section 60.3 of the National Flood Insurance Program regulations.

Manufactured Home. A structure transportable in one or more sections which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles.

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

*New Construction.* For floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community.

*Start of Construction.* For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348) includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvements was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

*Structure.* A walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*Substantial Improvement.* Any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either (1) before the improvement or repair is started or (2) if the structure has been damaged and is being restored before the damage occurred. For the purpose of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or a state inventory of historic places.

*Variance.* A grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements, see Section 60.7 of the National Flood Insurance Program regulations.)

*Violation.* The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications or other evidence of compliance required in Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such

time as that documentation is provided.

Water Surface Elevation. The height, in relation to the National Geodetic Vertical Datum (NGVDD) of 1929 (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal riverine areas.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-2)

### **Sec. 3.703      General Provisions**

(a) Lands to Which This Article Applies. This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Brownfield.

(b) Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled, "The Flood Insurance Study for City of Brownfield, Texas," dated August 20, 1980, with accompanying flood insurance rate maps and flood boundary-floodway maps (FIRM and FBFM) and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

(c) Establishment of Development Permit. A development permit shall be required to ensure conformance with the provisions of this article.

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

(e) Abrogation and Greater Restrictions. This article is not intended to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(f) Interpretation and Application. In the interpretation and application of this article, all provisions shall be considered as minimum requirements, liberally construed in favor of the governing body and deemed neither to limit nor repeal any other powers granted under state statutes.

(g) Warning and Disclaimer of Liability. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood

damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-3)

**Sec. 3.704 Administration**

(a) Designation of the Floodplain Administrator. The city manager is hereby appointed as the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (National Flood Insurance Program Regulations) pertaining to floodplain management.

(b) Duties and Responsibilities of the Floodplain Administrator. Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit application to determine whether proposed building site will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this article.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including section 404 of the Federal Water Pollution Control Act Amendments of 1973, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between mapped boundary and actual field conditions), the floodplain administrator shall make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency, which is Texas Water Commission, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any

watercourse is maintained.

- (8) When base flood elevation data has not been provided in accordance with Section 3.702(b), the floodplain administrator shall obtain, review and reasonably utilize any base flood elevation data and floodway data available from federal, state or other source in order to administer the provisions of Section 3.705.
- (9) When a regulatory floodway has not been designated, the floodplain administrator must require that no new construction, substantial improvements or other development (including fill) shall be permitted within Zones A1-30 and AE on the community's FIRM unless it demonstrates that the cumulative effect of the proposed development when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

(c) Permit Procedures.

- (1) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:
  - (A) Elevation (in relation to mean sea level) of the lowest floor (including basement) of all new and substantially improved structures;
  - (B) Elevation in relation to mean sea level to which any nonresidential structure shall be floodproofed;
  - (C) A certificate from a registered professional engineer or architect that the nonresidential, floodproofed structure shall meet the floodproofing criteria of Section 3.705;
  - (D) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
  - (E) Maintain a record of all such information in accordance with subsection (b)(1) above;
- (2) Approval or denial of a development permit by, the floodplain administrator shall be

*Brownfield Code of Ordinances*

based on all of the provisions of this article and the following relevant factors:

- (A) The danger to life and property due to flooding or erosion damage;
- (B) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- (C) The danger that materials may be swept onto other lands to the injury of others;
- (D) The compatibility of the proposed use with existing and anticipated development;
- (E) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- (F) The costs of providing governmental; services during and after flood conditions, including maintenance and repair of streets and bridges and public utilities and facilities such as sewer, gas, electrical and water systems;
- (G) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site;
- (H) The necessity to the facility of a waterfront location where applicable;
- (I) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
- (J) The relationship of the proposed use to the comprehensive plan for that area.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-4)

(d) Variance Procedures.

- (1) The zoning board of adjustments and appeals shall hear and render judgment on requests for variances from the requirements of this article.
- (2) The zoning board of adjustments and appeals shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision or determination made by the floodplain administrator in the enforcement or administration of this article.



*Brownfield Code of Ordinances*

- (3) Any person or persons aggrieved by the decision of the zoning board of adjustments and appeals may appeal such decision in the courts of competent jurisdiction.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-4; Ordinance adopting Code)

- (4) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.
- (5) Variances may be issued for the reconstruction, rehabilitation, or restoration of structures listed on the National Register of Historic Places or the state university of historic places without regard to the procedures set forth in the remainder of this article.
- (6) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level providing the relevant factors in subsection (c)(2) above have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (7) Upon consideration of the factors noted above and the intent of this article, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.
- (8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (9) Prerequisites for granting variances:
  - (A) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  - (B) Variances shall only be issued upon showing a good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense or create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (C) Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- (10) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that the criteria outlined in subsections (d)(1)-(9) are met and the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-4)

**Sec. 3.705 Provisions for Flood Hazard Reduction**

(a) Methods of Reducing Flood Losses. In order to accomplish its purposes, this article uses the following methods:

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

(b) General Standards. In all areas of special flood hazards, the following provisions are required for all new construction and substantial improvements:

- (1) All new construction or substantial improvements shall be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

- (2) All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- (3) All new construction or substantial improvements shall be constructed with materials resistant to flood damage;
- (4) All new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (5) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
- (6) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the system and discharge from the systems into floodwaters; and
- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(c) Specific Standards. In all areas of special flood hazards, where base flood elevation data has been provided as set forth in Section 3.703(b), Section 3.704(b)(8) or Section 3.705(d)(4), the following provisions are required:

- (1) Residential Construction. New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated, to or above the base flood elevation. A registered professional engineer, architect or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in Section 3.704(c)(1)(A), is satisfied.
- (2) Nonresidential Construction. New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic, and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications and plans for the construction and shall certify that the design and methods of construction are in

*Brownfield Code of Ordinances*

accordance with accepted standards of practice as outlined in this subsection. A record of such certification, which includes the specific elevation (in relation to mean sea level) to which such structures are floodproofed, shall be maintained by the floodplain administrator.

- (3) Enclosures. New construction and substantial improvements with fully enclosed areas below the lowest floor that are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

- (A) A minimum of two (2) openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
- (B) The bottom of all openings shall be no higher than one foot above grade.
- (C) Openings may be equipped with screens, louvers, valve or other coverings or devices, provided that they permit the automatic entry and exit of floodwaters.

- (4) Manufactured Homes.

- (A) Require that all manufactured homes to be placed within Zone A shall be installed using methods and practices which minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.

- (B) All manufactured homes shall be in compliance with subsection (c)(1) above.

- (C) Require that all manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE on the community's FIRM be elevated on a permanent foundation, such that the lowest floor of the manufactured home is at or above the base flood elevation, and be securely anchored to an adequately anchored foundation system in accordance with the provisions of this subsection.

- (d) Standards for Subdivision Proposals.

*Brownfield Code of Ordinances*

- (1) All subdivision proposals, including manufactured home parks and subdivisions, shall be consistent with Sections 6.701 (b) and (c) and subsection (a) of this above.
- (2) All proposals for the development of subdivisions including manufactured home parks and subdivisions, shall meet development permit requirements of Section 3.703(c), Section 3.704(c) and the provisions of this section.
- (3) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions, which is greater than fifty (50) lots or five (5) acres, whichever is lesser, if not otherwise provided pursuant to Section 3.703(b) or Section 3.704(b)(8) of this article.
- (4) All subdivision proposals, including manufactured home parks and subdivisions, shall have adequate drainage provided to reduce exposure to flood hazards.
- (5) All subdivision proposals including manufactured home parks and subdivisions, shall have public utilities and facilities, such as sewer, gas, electrical and water systems, located and constructed to minimize or eliminate flood damage.

(e) Standards for Areas of Shallow Flooding (AO/AH Zones). Located within the areas of special flood hazard established in Section 3.703(b) are areas designated as shallow flooding. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet, where a clearly defined channel does not exist and where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow; therefore, the following provisions apply:

- (1) All new construction and substantial improvements of residential structures have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two [2] feet if no depth number is specified).
- (2) All new construction and substantial improvements of nonresidential structures:
  - (A) Have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two [2] feet if no depth number is specified); or
  - (B) Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight, with walls substantially impermeable to the passage of water and with structural components having the

*Brownfield Code of Ordinances*

capability of resisting hydrostatic and hydrodynamic loads of effects of buoyancy.

- (3) A registered professional engineer or architect shall submit a certification to the floodplain administrator that the standards of this section, as proposed in Section 3.704(c)(1)(A) are satisfied.
- (4) Require within Zones AH or AO adequate drainage path around structures on slopes to guide floodwaters around and away from proposed structures.

(f) Floodways. Located within areas of special flood hazard established in Section 3.703(b) are areas designated as floodway. Since the floodway is an extremely hazardous area due to the velocity of floodwaters which carry debris, potential projectile and erosion potential, the following provisions shall apply:

- (1) Encroachments are prohibited, including fill, new construction, substantial improvements and other development unless certification by a professional registered engineer or architect is provided demonstrating that encroachment shall not result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- (2) If subsection (f)(1) above is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

(1965 Code of Ordinances, Chapter 61/2, Section 61/2-5)

## **ARTICLE 3.800 GAS**

### **Sec. 3.801 International Fuel Gas Code**

A certain document, three (3) copies of which are in file in the office of the city secretary, being marked and designated as the International Fuel Gas Code, 2012 edition, including appendix chapters A–D, as published by the International Code Council, be and is hereby adopted as the fuel gas code of the city for regulating and governing fuel gas systems and fuel gas appliances; providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said fuel gas code on file in the office of the city secretary are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in Section 3.802 of this article.

**Sec. 3.802 Amendments**

The following changes are hereby made to the published version of the 2012 edition of the International Fuel Gas Code on file in the office of the city secretary. The changes contained herein shall be construed as a part of the published code and in the event of a conflict between these provisions and their corresponding provisions in the published code, these provisions shall control.

(Ordinance 2032 adopted 1/17/13)

*Section 101.1* Insert: City of Brownfield. (Ordinance 1943 adopted 9/21/06)

*Section 106.6.2:* Insert: See Appendix A Brownfield City Code.

*Brownfield Code of Ordinances*

*Section 106.6.3 Fee Refunds* to read as follows:

“the full amount of any fee paid hereunder which was erroneously paid or collected.”

*Amend Section 107.2 Testing* to reflect the following:

Delete the word permit holder and “permit holder’s agent” and insert the words, “master plumber.”

(Ordinance 2032 adopted 1/17/13)

## **108 VIOLATIONS**

*Section 108.4 Substitute:* See Chapter 1, Section 1.109 of the Brownfield City Code

*Section 108.5 Insert:* \$1.00 to \$2,000.00 in blanks in the last sentence. Add sentence to the end of the paragraph. “Reinspection fees shall be charged as established in Appendix A of the Brownfield City Code.”

## **109 MEANS OF APPEAL**

### **109.1 Application for appeal, pertaining to appeals.**

A fee of ten dollars (\$10.00) shall accompany such notice of appeal.

(Ordinance 1943 adopted 9/21/06)

*Add Section 109.1.2 to read as follows:*

#### **109.1.2 DELIVERY OF NOTICE**

Delivery may be accomplished by personal delivery to the owner or the owners agent or contractor or by certified mail return receipt requested or by posting a notice at the entrance of the structure. A timely properly perfected appeal shall stay the decision of the plumbing inspector until such time as a decision is rendered by the board.

(Ordinance 1943 adopted 9/21/06; Ordinance 2032 adopted 1/17/13)



*Reword Section 109.2 to read as follows:*

### **109.2 MEMBERSHIP OF BOARD**

There is hereby created a six member plumbing, gas and mechanical board consisting of:

- (1) A licensed master plumber
- (2) A licensed journeyman plumber
- (3) A building contractor
- (4) The city manager
- (5) A designated representative of the South Plains Public Health District
- (6) Landscape irrigator

The plumbing inspector shall be an ex-officio, nonvoting member of said board.

Members of the board shall be appointed by the city council and shall hold office for terms of 2 years, or until their successors are appointed and have qualified. All members are subject to removal by the city council with or without cause.

The city manager and the designated representative of the South Plains Public Health District shall be eligible to serve only so long as they hold office.

A majority of the board shall constitute a quorum for the transaction of business.

*Reword Section 109.2.6 to read as follows:*

### **109.2.6 COMPENSATION OF MEMBERS**

All members shall serve without compensation.

*Add Section 109.8 to read as follows:*

### **109.8 ADVISORY RESPONSIBILITY OF THE BOARD**

The board shall submit to the city council such recommendations for the improvement and revision of this code as it may from time to time deem necessary and proper in light of the

*Brownfield Code of Ordinances*

development of new materials, methods or techniques which would result in a better and or more economical installation. All requests for use of materials or methods not covered in this code shall be fully supported by factual evidence, or prior approval, from a recognized testing agency or such impartial qualified authority acceptable to the board.

*Section 202, Definitions, Add “Board of appeals shall be the plumbing board.”*

**Section 401 General**

*401.8 Minimum Sizes is reworded to read as follows:*

When gas supply pressure is 0.5 psig or less, yard line piping shall be a minimum of one-inch diameter. Larger sizes may be required based on demand. See Section 402 of the International Fuel Gas Code.

**Section 403 Piping Materials**

*Delete Section 403.4.3 - Copper and Brass Tubing.*

*Delete Section 403.4.4 - Aluminum Tubing.*

*Delete Section 403.5.2 - Copper and Brass Tubing.*

*Delete Section 403.5.3 - Aluminum Tubing.*

(Ordinance 1943 adopted 9/21/06)

*Delete Section 403.5.4 - Corrugated stainless steel tubing.*

**Section 404 Piping System Installation**

*Delete Section 404.2 - CSST*

(Ordinance 2059 adopted 11/20/14)

*Section 404.12 is reworded to read as follows:*

**404.12 Minimum Burial Depth**

No gas piping shall be placed underground closer than five (5) feet from a water pipe or a sewer line. All service lines will be a minimum depth of eighteen (18) inches below

*Brownfield Code of Ordinances*

finished grade. Underground gas piping to outside appliance equipment shall be installed at minimum depth of eighteen (18) inches below finished grade. If a minimum of eighteen (18) inches of cover cannot be maintained, the pipe shall be installed in conduit or bridged (shielded).

(Ordinance 2032 adopted 1/17/13)

*Add Section 406.3.6 to read as follows:*

**406.3.6 TESTING STEEL FLEX LINE**

All flex lines serving an appliance will be included with the usual gas test.

*Section 406.4, is reworded to read as follows:*

#### **406.4 TEST PRESSURE MEASUREMENT**

Test pressure shall be measured with a 4-1/2" diaphragm gauge, manometer or with a pressure measuring device designed and calibrated to read, record, or indicate a pressure loss caused by leakage during the pressure test period. The source of pressure shall be isolated before the pressure tests are made. Mechanical gauges used to measure test pressures shall have a range such that the highest end of the scale is not greater than five times the test pressure. All diaphragm gauges shall be calibrated yearly. No spring-loaded gauges shall be used as a pressure measuring device.

(Ordinance 1943 adopted 9/21/06)

### **ARTICLE 3.900 STREET IMPROVEMENTS\*(6)**

#### **Sec. 3.901 Approval of City Council Required**

From and after the passage and taking effect of this article no street and/or alley improvements shall be made within the city limits, unless and until prior approval thereof shall be first had and obtained of and from the city council. (1965 Code of Ordinances, Chapter 17, Article II, Section 17-18)

#### **Sec. 3.902 Approval of Plans and Specifications**

From and after the passage and taking effect of this article all street and alley improvements within the city limits, shall be constructed only in accordance with plans and specifications as approved by the city council, or by the city engineer of said city at the direction of the city council. (1965 Code of Ordinances, Chapter 17, Article II, Section 17-19)

#### **Sec. 3.903 Cost to be Borne by Realty Owners or Developers; Exceptions**

Except where the city council of the City of Brownfield, Texas, shall by ordinance declare the necessity for and order the paving and improvements of any street or portion thereof in the City of Brownfield, Texas, and direct the preparation of estimates, and invoke the procedure provided by the charter of the City of Brownfield, Terry County, Texas, and invoke the procedure provided by Chapter 106 of the acts of the first called session of the 40<sup>th</sup> Legislature of the State of Texas (Article 1105b, RCS) and determine that a part of the cost shall be borne by the city, and that a part thereof shall be borne by the abutting property and the owners thereof, and shall

provide for the assessment of the portion of the cost to be borne by property owners, and for the fixing of a lien to secure payment of such indebtedness all pursuant to the city charter of the City of Brownfield, Terry County, Texas, and Article 1105b of the Revised Civil Statutes of the State of Texas, or the city council of the City of Brownfield, by resolution shall declare that it is in the best interest of the City of Brownfield to pave and improve or construct a street, the cost to be borne by the City of Brownfield and the abutting property owners in such proportion as determined by the city council, that the total cost of the improvements to any street or alley, or portion thereof within the city limits of the City of Brownfield, Terry County, Texas, shall be borne by the owner or owners, and/or developers of such area and/or street and/or alley to be improved, excluding the engineering cost which will be paid for by the City of Brownfield, Texas. (1965 Code of Ordinances, Chapter 17, Article II, Section 17-20)

**Sec. 3.904 Preparation of Plans and Specifications; Advertisement for Bids; Deposit of Total Cost With City**

Prior to the preparation of plans and specifications by the city engineer, estimates of cost shall be prepared by the city engineer and the developer shall deposit with the City of Brownfield funds equal to the estimated cost of said improvements. Prior to the beginning of construction of any street or alley improvements within the city limits of the City of Brownfield, Terry County, Texas, plans and specifications shall be prepared by the city or by the city engineer at the city's direction, and after the preparation of the plans and specifications by the City of Brownfield, Texas, as aforesaid, if the expenditure on the part of the city shall exceed that amount as required by the charter of the City of Brownfield, Terry County, Texas, to be advertised for bids, then the city will advertise for bids and proceed with construction of paving improvements as soon as possible. In event the expenditure called for by the City of Brownfield, Terry County, Texas, shall not be required to exceed that amount required by the charter of the City of Brownfield, Terry County, Texas, to be advertised for bids, then the city council may if it so desires approve the city's participation and/or ordinance of the city council of the City of Brownfield, Texas, or it may advertise for bids as it shall desire. If upon the award of contracts of said improvements the funds deposited by the developer are less than the contract price, then the developer will be required to deposit such additional funds as required to equal the contract price. (1965 Code of Ordinances, Chapter 17, Article II, Section 17-21)

**Sec. 3.905 Refund of Cost; Partial Payments**

Upon the determination of the total costs of the improvements in the event it shall occur that the total cost of improvements shall run less than the fund deposited by the developer then the excess shall be refunded to the owner and owners and/or developers, and/or the person, firm or corporation who shall have made said deposit; and in case the funds deposited are insufficient to pay the total cost of work the owner, owners, and/or developers shall deposit additional funds as required to equal the total cost to the City of Brownfield, Terry County, Texas. No money shall

be paid by the said city to the contractor prior to completion and acceptance by the city council of the paving improvements unless the specifications and contract documents provide for partial payments as the work progresses; in which case the partial estimates or payments as prepared by the engineer and approved by the City of Brownfield, Texas shall be paid to the contractor as the work progresses. (1965 Code of Ordinances, Chapter 17, Article II, Section 17-22)

**Sec. 3.906 No Refunds for Construction Costs**

The city's total participation in the cost of any street or alley improvements constructed under this article shall be the engineering cost; except as provided herein; and the City of Brownfield will not participate to any extent in the construction cost of the improvements and no refunds will be made to the owners or developers of the streets or alleys constructed under this article for any portion of the cost of said improvements. (1965 Code of Ordinances, Chapter 17, Article II, Section 17-23)

**ARTICLE 3.1000 CURB AND GUTTERS**

**Sec. 3.1001 Adoption of Construction Regulations**

There is hereby adopted by the city for the purpose of the regulation of the construction and repair of all curbs and gutters for driveways within the city, that certain detail and sketch prepared by Parkhill, Smith and Cooper, consulting engineers, Lubbock, Texas, dated June, 1955 and entitled, "All Curb Removed for Driveway or Other Purposes to be Removed and Repaired in Accordance with the Above Sketch," copies of which are on file in the office of the city secretary for the use of the public.

The construction and repair of all curbs and gutters for driveways within the city shall conform to said detail and sketch. (1965 Code of Ordinances, Chapter 17, Article III, Section 17-38)

**Sec. 3.1002 Violation of Article Provisions**

Any person that shall violate any or fail to comply with the provisions of this article shall be guilty of a misdemeanor. Each day such violation shall be permitted to exist shall constitute a separate offense. The owner or owners of any property or part thereof where anything in violation of this article shall be placed or shall exist, and any architect, builder, contractor, agent, person or corporation employed in connection therewith, or who have assisted in the commission of any violation, shall be guilty of a separate misdemeanor. (1965 Code of Ordinances, Chapter 17, Article III, Section 17-39)

**Sec. 3.1003 Expansion Joints**

There shall be placed at the rear or property side of all gutters constructed in the city, an expansion joint between the property side of said gutter and abutting the construction and/or property to allow for contraction or expansion of the concrete gutter. (1965 Code of Ordinances, Chapter 17, Article III, Section 17-40)

**Sec. 3.1004 Gutters to be Concrete**

All gutters constructed in the city shall be made of concrete. (1965 Code of Ordinances, Chapter 17, Article III, Section 17-41)

**ARTICLE 3.1100 SIDEWALKS<sup>\*(7)</sup>**

**Sec. 3.1101 Maintenance by Property Owners**

All owners of property within the city having sidewalks constructed adjacent to the streets are hereby required to keep the said sidewalks in good repair and free from obstruction. (1965 Code of Ordinances, Chapter 17, Article IV, Section 17-52)

**Sec. 3.1102 Notice to Repair, Clear-Duty to Obey**

Whenever any sidewalk adjacent to any property abutting any street or alley within the city shall become out of repair or in any way obstructed so as to interrupt the free passage over the same, the city, through its agents or employees, shall notify the person owning or controlling the property abutting thereon to repair the same or to remove the obstruction. It shall be the duty of such person to comply with such notice within a reasonable period of time. (1965 Code of Ordinances, Chapter 17, Article IV, Section 17-53)

**Sec. 3.1103 Same-Failure to Comply**

Any person who fails to comply with any notice to repair or unobstruct any sidewalk issued by the city pursuant to Section 3.1102 shall be deemed guilty of a misdemeanor. (1965 Code of Ordinances, Chapter 17, Article IV, Section 17-54)

**Sec. 3.1104 Fences Not to be on Streets or Sidewalks**

No fence or other obstruction of any kind or character shall be permitted on any street or alley or between the property line of any property and the curb or street line abutting onto said property in the city. (1965 Code of Ordinances, Chapter 17, Article IV, Section 17-55)

**Sec. 3.1105 Sidewalks Required at Residential Construction**

Whenever any residential building shall be built on any property abutting on any paved street within the city, the person so constructing said building shall construct a sidewalk with a minimum width of four (4) feet across the full width of said property. On corner lots a sidewalk is required to be constructed only across the front of said lot opposite the alley adjacent to said lot. The inside boundary of said sidewalk shall be two (2) feet from the property line abutting onto the street of such property. Any person who shall so construct said residence on said property, without constructing said sidewalk as herein defined shall be guilty of a misdemeanor. (1965 Code of Ordinances, Chapter 17, Article IV, Section 17-56)

**Sec. 3.1106 When Construction at Curb Line Permitted**

In lieu of the location of the sidewalks as contained in Section 3.1105, if all of the owners within a particular block abutting into any street within the city shall desire to do so, they may construct the required sidewalk so that it abuts onto the curb line of the street on which said property abuts. This shall occur only in those areas where all of the property owners within a block shall construct said sidewalks abutting onto the curb. This shall only be permitted on paved streets and where all of the property owners on either side of the street shall so construct said sidewalk at said location. (1965 Code of Ordinances, Chapter 17, Article IV, Section 17-57)

**ARTICLE 3.1200 RIGHT-OF-WAY CONSTRUCTION**

**Sec. 3.1201 Short Title**

This article shall be known and may be cited as the "Right-of-Way Construction Article of the City of Brownfield." (1965 Code of Ordinances, Chapter 17, Article V, Section 17-100)

**Sec. 3.1202 Definitions and Terms of Construction**

Terms, phrases and words and their derivations used herein shall, in addition to their common meanings, have the more specific meanings as follows.

When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number.

Shall. The word "shall" is always mandatory and not merely directory.

Applicant. Any person, firm, partnership, association, corporation, company or organization



*Brownfield Code of Ordinances*

making application to perform construction within the right-of-way.

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

City Council, City Manager, Building Inspector, City Attorney, City Engineer, Traffic Engineer. The city council, city manager, building inspector, city attorney, city engineer, traffic engineer or other city officers or departments as used herein shall mean the respective officers or departments of the City of Brownfield, Texas, and their authorized representatives.

Construction. Includes any and all construction, excavation or other work done in the public right-of-way.

Repair Work. The rehabilitation and/or replacement of defective construction in the right-of-way.

Street. Any street, highway, sidewalk, alley, avenue, recessed parking area or other public right-of-way, including the entire right-of-way and not merely the improved portion of the said right-of-way.

Person. Any person, firm, partnership, association, corporation, company or organization of any kind.

Permittee. Any person who has been granted and has in full force and effect a construction permit issued hereunder.

Recessed Parking Area. That additional parking area formed by setting the established street "curbline" back toward the property line of the property owner and shall include such recessed parking areas formed partly on private property and partly on public right-of-way.

Curb. A vertical or sloping member along the edge of a pavement strengthening or protecting the paving edge and clearly defining the pavement edge to vehicle operators. The surface facing the general direction of the pavement is the "face." The "curbline" is the line of the back edge, as distinguished from the face, and is as established by the city engineer for alignment of the curb.

Owner. The record owner of property abutting the public right-of-way.

Right-of-Way. All public right-of-way of streets or other public property within the city.

Angle of Departure. The angle between two (2) planes, one being the surface on which a vehicle is supported and the other being an inclined plane passing through the lowest points of the rear wheels and the lowest point of the rear bumper of the vehicle.

*Brownfield Code of Ordinances*

Angular Bisector. The line bisecting the angle formed at an intersection of the right-of-way lines bounding a property abutting both streets.

Driveway Approach. The area, construction, or facility between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to private property.

Intersection. The general area where two (2) or more streets join or cross, within which are included the roadway and the roadway and the roadside facilities for traffic movements in that area.

Island. A defined area separating two (2) driveway approaches, within the right-of-way, for control of vehicular movement and for pedestrian refuse.

Property Frontage, Driveway Approach Area Measurements. All references to property frontage and driveway approach areas on the street adjacent to and bounding the abutting private property, as well as such additional frontage and driveway approach areas of adjoining property which by virtue of an easement, license or other agreement with the owner of such adjoining property, are under the control of the person making the improvements and may be used for driveway approach purposes.

Roadway. The portion of the street including shoulders, which is used for vehicular traffic. On curbed streets it is the area between curblines.

Minimum, Maximum. As used on the drawings, identified as Plates 1A through 8A inclusive, and included as a part of this article, are limits of design dimension and to which construction may be performed at the option of the permittee. (Plates 1A through 8A are on file with city).

Reinspection. An additional or supplemental inspection, which is necessitated by a noncompliance with the construction, authorized by the permit and required by this article.

Public Utility, Utility. Any person, firm, partnership, association, corporation, company or organization which conducts in the city a business of distributing to the citizens of Brownfield, electricity, gas or water or provides to the general public the service of telephone communication or sewage disposal and has the right to use and occupy the city streets, alleys, and other public places in conducting such business by virtue of an existing franchise granted by the city or by the right under the city charter.

Homeowner. As the word is used herein is defined as owner and occupant of the residential property adjacent to the right-of-way.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-101)

**Sec. 3.1203 Penalty for Violation of Article Provisions**

Any person, firm or corporation violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in accordance with the general penalty provision found in Section 1.109 of this code; and each day of violation under this article shall become a separate offense. Repeated violations of this article will be grounds for refusal by the building inspector to issue permits to such applicants. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-102)

**Sec. 3.1204 Liability of City**

This article shall not be construed as imposing upon the city or any city official or employee any liability or responsibility for damages to any person injured by the performance of any construction or excavation work for which a permit is issued hereunder; nor shall the city or any official or employee thereof be deemed to have assumed any such liability or responsibility by reason of inspections authorized hereunder, the issuance of any permit or the approval of any excavation work. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-103)

**Sec. 3.1205 Administrative Officer**

The building inspector in working under this article shall be the administrative city official responsible under the city manager for right-of-way construction. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-105)

**Sec. 3.1206 Emergency Action**

In the event of any emergency in which a sewer main, conduit, or utility in or under any street breaks, or is in such condition as to immediately endanger the property, life, health or safety of any individual, the person causing or knowing of such damage, break or condition shall immediately notify the owner of such facility of such fact, and the person owning or controlling such sewer main, conduit or utility, without first applying for and obtaining an excavation permit hereunder, shall immediately take proper emergency measures to cure or remedy the dangerous conditions for the protection of property, life, health and safety of individuals. However, such person owning or controlling such facility, unless exempt under Section 3.1212 of this article, shall apply for a permit not later than the end of the next succeeding day during which the city hall is open for business and shall not proceed with permanent repairs without first obtaining a permit hereunder. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-106)

**Sec. 3.1207 Urgent Work**

If in his judgment traffic conditions, the safety or convenience of the traveling public or the public interest require that the work be performed as emergency work, the building inspector shall have full power to order, at the time the permit is granted, that a crew of men and adequate facilities be employed by the permittee twenty-four (24) hours a day to the end that such work may be completed as soon as possible. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-107)

**Sec. 3.1208 Routing of Traffic**

The normal conditions of traffic will not be disrupted without the approval of the chief of police. The chief of police shall prescribe such traffic controls as he deems necessary. Such controls are to be furnished by the permittee. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-108)

**Sec. 3.1209 Clearance for Fire Equipment**

All construction work shall be performed and conducted so as not to interfere with access to the fire stations and fire hydrants. Materials or obstructions shall not be placed within fifteen (15) feet of fireplugs. Passageways leading to fire escapes or firefighting equipment shall be kept free of piles of material or other obstructions. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-109)

**Sec. 3.1210 Existing Nonconforming Conditions**

(a) The use of any property, construction and improvements existing and lawful at the time of the enactment of this article or any amendment thereto may be continued although such use does not conform to the provisions and regulations of this article.

(b) No such nonconforming use or condition of any property, construction or improvement shall be hereafter extended or materially altered unless such extension or alteration shall conform to the provisions of this article; but nothing herein shall be deemed to prevent the normal maintenance and repair of any such nonconforming construction or improvement unless such nonconforming use creates a hazardous condition.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-110)

**Sec. 3.1211 Permit Required for Construction in Public Right-of-Way**

All construction within the public right-of-way of the city is prohibited unless such person shall

*Brownfield Code of Ordinances*

first have obtained a permit therefore from the building inspector, unless such person is specifically exempt therefrom. Such construction shall specifically include:

- (1) The construction, demolition and/or repair of curbs, gutters, streets, sidewalks, driveway approaches, recessed parking areas and other construction in the right-of-way. This does not apply to such construction or repair on private property except where such construction or repair becomes an integral part of streets as a portion of a recessed parking area.
- (2) The digging up, breaking, excavating, tunneling, undermining or damaging of any streets as herein defined, or placing, depositing or leaving upon any street any earth or other material or obstruction.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-111)

**Sec. 3.1212 Exemptions From Permit Requirements**

- (a) Work done by the city or under city contract and under direction of the city is exempt from the provisions of this article.
- (b) Work done by public utility companies who operate under a current franchise from the city, or their contractors, is exempt from this article.
- (c) Work done by plumbers who are qualified and bonded with a valid permit from the City of Brownfield is exempt from the bond, insurance and permit fee provisions of this article, but must comply with the balance of said article.
- (d) Work done by governmental agencies or by contractors under contract and under direct supervision of governmental agencies is exempt from bond, insurance and permit fee provisions of this article, but must comply with the balance of said article.
- (e) Work done by a homeowner within the public right-of-way abutting his property shall be exempt from the bond and insurance provisions of this article, but said homeowner must comply with the balance of said article.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-112)

**Sec. 3.1213 Permit and Reinspection Fee Schedule**

Permit fee and reinspection fees shall be charged by the building inspector for the issuance of right-of-way construction permits and for additional reinspection hereunder, which shall be in

addition to all other fees or charges for any proposed construction work. These fees shall be in amounts varying with the type of construction, excavation or other work proposed.

- (1) Schedule of Permit Fees. A schedule of permit fees shall be approved by the city council by resolutions from time to time.
- (2) Schedule of Reinspection Fees. A reinspection fee schedule shall also be prepared and approved in like manner.
- (3) Permit and Reinspection Fees Not Included in Subsection (1) or (2). All permits and reinspection fees under this article for which no fee schedule has been approved or for each permit or reinspection not so listed in the approved fee schedules hereunder shall be issued upon the payment of a fee as provided for in the fee schedule found in the appendix of this code.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-113)

**Sec. 3.1214 Application for Permit**

- (a) No permit hereunder shall be issued unless a written application for the issuance of said permit is submitted to the building inspector, the permit to contain such information as may be required by the city.
- (b) Two (2) sets of plans or sketches must be submitted showing the extent of the proposed work and/or such other information as may be required under the circumstances by the building inspector.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-114)

**Sec. 3.1215 Issuance of Permit**

- (a) The building inspector shall issue a permit hereunder within seven (7) days after receipt of a proper application together with the permit fee and proper bond and insurance certificates, provided that the building inspector is convinced that the submitted plans for construction will meet all requirements of this article and other applicable city and state laws.
- (b) Upon approval of the permit, the building inspector shall deliver to the applicant such permit with one set of plans for the proposed work, indicating approval thereon, any revisions required in the proposed work and grades and/or bench marks necessary for compliance with the city design requirements.

*Brownfield Code of Ordinances*

(c) Where there are special conditions, practical difficulties, or unnecessary hardships in the way of literal enforcement of the strict letter and provisions of this article, the building inspector is hereby authorized to vary the application of any such provisions in harmony with the general purpose and intent of this article, but consistent with public interest, safety and general welfare. Any substantial variances shall be in writing and shall be specifically noted in the permit.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-115)

**Sec. 3.1216 Safety Precautions**

It shall be the duty of the person making any excavation or improvement in any public street or right-of-way to maintain approved traffic-control devices and barricades as required by the Texas Manual on Uniform Traffic-Control Devices. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-116)

**Sec. 3.1217 Performance Bond**

Before a construction permit as herein provided is issued to applicant, he shall deposit with the city secretary a performance bond in the amount of five thousand dollars (\$5,000.00) payable to the city. The required performance bond must be:

- (1) With a good and sufficient corporate surety authorized to do business in the State of Texas.
- (2) Duly completed on a form prescribed and furnished by the city.
- (3) Conditioned upon the permittee's compliance and performance in accordance with the Code of Ordinances, as well as the specifications of the city; and said bond is further conditioned that the permittee shall fill up, restore and place in good and safe condition, as near as may be, to original condition, and to the satisfaction of the city all openings and excavations made in all streets, alleys or other public right-of-way. An annual bond may be given under these provisions which shall remain in force for a period of one year from date of initial work permit granted hereunder, or until all work under any permit granted within a year of the date of said original permit shall have been completed, as to all right-of-way construction or excavation work in public rights-of-way within the city.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-117)

**Sec. 3.1218 Construction of Street, Sidewalks, Etc.; Public Liability Insurance Required**

*Brownfield Code of Ordinances*

(a) Public Liability Insurance. Before such permittee as described herein shall engage in any work described therein, he shall file with the city secretary and thereafter keep in full force and effect throughout the time of work, a policy or policies of public liability insurance issued by an insurance company authorized to do business in the State of Texas, which policy shall be approved by the city attorney and said policy shall be performable in Terry County, Texas, insuring the public against any loss or damage that may result to any person or property caused by the negligent or willful acts of said contractor or permittee or his agents or employees in the construction of or growing out of the construction of said work, provided that the maximum amount of recovery in such policy of insurance specified shall not be less than the following sums for damages caused by the construction of said work:

- (1) For bodily injury to any one person or the death of any one person in any one accident-\$100,000.00.
- (2) For bodily injury in any one accident-\$300,000.00.
- (3) For the injury or destruction of property in any one accident-\$100,000.00 on each property injured or destroyed by said contractor.
- (4) A total of \$300,000.00 for each accidental destruction or injury to all of said property in any one accident.

All policies of insurance shall contain a provision for a continuing liability thereon up to the full amount thereof, notwithstanding any recovery thereon. It shall be the duty of such permittee and the surety on the bond to give notice to said city by filing a written notice with the city secretary of the expiration of said policy at least ten (10) days before the expiration thereof.

(b) Workmen's Compensation Insurance. It shall be the duty of the permittee herein to carry workmen's compensation insurance for all employees of said permittee who may be engaged in any construction or excavation work in the public right-of-way, said insurance to comply in all respects with the Texas law regarding workmen's compensation insurance, and evidence of which insurance coverage must be presented to the city engineer before any work is commenced under any permit granted by this article.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-118)

**Sec. 3.1219 Preservation of Monuments**

(a) The permittee shall not disturb any surface monuments or hubs found on the line of work until ordered to do so by the city.



(b) In the event that the permittee, his agent or his employees disturb or remove hubs or stakes, the hubs or stakes shall be replaced at the expense of the permittee.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-119)

**Sec. 3.1220 Removal and Protection of Existing Improvements**

The permittee shall not interfere with any existing improvements without the written consent of the building inspector and the person owning the improvements. If it becomes necessary to remove an existing improvement, this shall be done by its owner. No improvements owned by the city shall be moved to accommodate the permittee unless the cost of such work be borne by the permittee. The cost of moving privately owned improvements shall be similarly borne by the permittee unless he makes other arrangements with the person owning the improvement. The permittee shall protect any improvements which may be in any way affected by his work. In case any of said improvements should be damaged, they shall be repaired in conformance with all applicable requirements by the agency or person owning them and the expense of such repairs shall be charged to the permittee, and his or its bond shall be liable therefore. The building inspector shall have the authority to cause said necessary labor and materials to be furnished by the city and the cost shall be charged against the permittee, and the permittee shall also be liable on his or its bond thereof. The permittee shall be responsible for any damage done to any public or private property by reason of the breaking of any water pipes, sewer, oil pipe, gas pipe, electric conduit, telephone conduit or other utility and his bond shall be liable therefore. The permittee shall inform himself as to the existence and location of all underground utilities and protect the same against damage. The work "improvement" shall include utilities. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-120)

**Sec. 3.1221 Protection of Adjoining Property**

The permittee shall at all times and at his own expense, preserve and protect from injury any adjoining property by providing proper safeguards and taking measures adequate for the purpose. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-121)

**Sec. 3.1222 Protection of Watercourses**

The permittee shall provide for the flow of all watercourses, sewer or drains intercepted during the work and shall replace the same in as good condition as they were found or shall make such provisions for them as the city may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provisions to take care of all surplus water, muck, silt, slicking or other runoff pumped from excavations or resulting from sluicing or other operations and shall be responsible for any damage resulting from his failure to so provide. (1965 Code of Ordinances,

Chapter 17, Article V, Section 17-122)

**Sec. 3.1223 Attractive Nuisance**

It shall be unlawful for the permittee to suffer or permit to remain unguarded at the place of the work any opening, machinery, equipment or other device having the characteristics of any attractive nuisance likely to attract children and hazardous to their safety or health. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-123)

**Sec. 3.1224 Lines and Grades**

(a) The city may furnish information for and/or set stakes establishing curblines and grades for the construction, reconstruction or major repairs of any improvements covered by this article. All such construction shall be subject to approval of the city.

(b) In those cases of original construction where the grade and location of the street curb and gutter cannot be established because of existing conditions, the street curb, gutter and sidewalk may be omitted upon request of the applicant and approval of the city council until such time as the remaining street curb and gutter and sidewalk fronting the abutting property is constructed. The applicant shall agree in writing to install street curb, gutter and sidewalk at such time as the remaining street curb and sidewalk fronting the abutting property is constructed. Said document shall be recorded at the Terry County Courthouse.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-124)

**Sec. 3.1225 Power of the City to Change Grade of Streets**

The city hereby expressly reserves the right when putting down a permanent street pavement, whether by original construction or reconstruction, to change or alter the lines and grades of said street when in the opinion of the city engineer, such change is necessary for the proper pavement or drainage of said street. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-125)

**Sec. 3.1226 Construction Materials and Methods**

Construction and/or repairs shall be in accordance with the latest revision of the City of Brownfield standard specifications in effect as of the date of issuance of the permit. Construction or repairs not meeting these requirements shall be removed at the expense of the permittee. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-126)

**Sec. 3.1227 Extent of Construction Required**

*Brownfield Code of Ordinances*

(a) When a new structure is to be built on a lot or moved onto a lot and used for other than residential purposes, right-of-way improvements shall be required on the property abutting the public right-of-way and sidewalks, curb and gutter shall be required around the portion of the property being improved. There shall be no right-of-way requirements for additions to existing buildings (commercial or residential). All construction in the right-of-way shall be subject to the provisions of this article, the Brownfield Subdivision Ordinance and other applicable codes and ordinances.

(b) Construction improvements within the public right-of-way where permanent structures exist on the abutting property shall be allowed as long as such improvements do not create a hazardous condition and provided that all construction materials and methods conform to the provisions of this article.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-127)

**Sec. 3.1228 Details of Construction**

All curbs, gutters, sidewalks, driveway approaches, etc., constructed, reconstructed or altered in city streets or alleys shall conform to the details shown in Plates 1A through 8A, as on file in the office of the city secretary. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-128)

**Sec. 3.1229 Normal Working Time**

All work done by the permittee shall be done between the hours of 7:00 a.m. and 10:00 p.m., Monday through Saturday, except as otherwise provided in this article or unless otherwise authorized by the building inspector on the permit. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-129)

**Sec. 3.1230 Noise, Dust and Debris**

Each permittee shall conduct and carry out the work in such manner as to avoid unnecessary inconvenience and annoyance to the general public and occupants of neighboring property. The permittee shall take appropriate measures to reduce to the fullest extent practicable in the performance of the work noise, dust and unsightly debris, and during the hours of 10:00 p.m. and 7:00 a.m. shall not use, except with the express written permission of the building inspector, or in case of emergency as herein otherwise provided, any tool, appliance or equipment producing noise of sufficient volume to disturb the occupants of the neighboring property. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-130)

**Sec. 3.1231 Prompt Completion of Work**

*Brownfield Code of Ordinances*

The permittee shall prosecute with diligence and expedition all work covered by the permit and shall promptly complete such work and restore the street to its original condition or as near as may be, as soon as practicable, and in any event not later than the date specified in the permit therefore. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-131)

**Sec. 3.1232 Repair Work**

Repair work as defined herein shall comply with the provisions of this article to the extent practicable, except that sections of surface structures being replaced shall conform as nearly as possible in dimension, shape and appearance with the structure in place. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-132)

**Sec. 3.1233 Restoration of Surface**

(a) The permittee shall restore all streets, broken into or damaged as a result of the construction work, to their original condition in accordance with the city standard specifications.

(b) Acceptance or approval of any work by the city shall not prevent the city from asserting a claim against the permittee and his or its surety under the surety bond required hereunder for incomplete or defective work if discovered within six (6) months from the completion of the work. The presence of a city representative during the performance of any work shall not relieve the permittee of his responsibilities hereunder.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-133)

**Sec. 3.1234 Inspections**

The city shall make such inspections as are reasonably necessary in the enforcement of this article. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-134)

**Sec. 3.1235 Sidewalk Construction**

(a) All sidewalks shall be constructed of concrete with the exception of commercial areas where there is adjacent or contiguous parking areas to the sidewalk area in which case the sidewalk area may be of asphaltic concrete at the option of the property owner, provided that:

- (1) The construction of the sidewalk area meets the requirements of this article pertaining to design standards for asphaltic concrete paving.
- (2) The sidewalk area is protected with a permanent curb constructed on the property line.

- (3) The property owner at all times maintains the asphalt sidewalk area in a safe and nonhazardous condition for public use.

(b) The width of all nonresidential sidewalks shall be a minimum of four (4) feet in width and the other edge shall be adjacent to the curb. When adjacent to parking areas, the sidewalk shall be protected by permanent curb.

(c) When bumper curbs were installed under permission granted by the city council prior to the passage of this article, the owner or occupant must maintain said bumper curbs in the same position as originally installed unless replaced by a permanent curb under the provisions of this article.

(Ordinance 1817 adopted 6/4/98)

### **Sec. 3.1236 Recessed Parking Areas**

Recessed parking areas may be installed only in special circumstances which do not interfere with traffic or other responsibilities of the city. A permit to install a recessed parking area shall be granted only to the abutting property owner and where he agrees to be bound to accept future cost of reconstruction or upkeep as may be required. This agreement must be recorded at the Terry County Courthouse. Recessed parking areas shall be constructed in conformance with Plate 5A, unless otherwise approved in writing by the city engineer. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-136)

### **Sec. 3.1237 Driveway Approaches**

(a) Location and Angle of Intersection.

- (1) No driveway approach shall be permitted to encompass or encroach upon any municipal facility, provided that the relocation of municipal facilities may be authorized by the city manager if the construction of a driveway approach under the provisions of this article shall encroach thereon, and provided that such relocation shall be completed by and at the expense of the applicant and in accordance with specifications provided by the building inspector in the permit issued therefore.
- (2) At street intersections, no driveway approach or curb cut shall be permitted within the limits of the intersection of the extended right-of-way line with the curb line or pavement edge if no curb exists.
- (3) Where sidewalks exist, the beginning of the driveway approach shall not commence

nearer the corner than the inside edge of the sidewalk.

- (4) It is the intent and policy of this article that the location and angle of a driveway approach in relation to the street intersection shall be such that a vehicle leaving the abutting property may turn into the lane of traffic moving in the desired direction and be channeled within such lane before crossing the intersection or proceeding along the street, and that a vehicle entering the abutting property may turn out of the nearest lane of traffic without interfering with other traffic.
- (5) No curb shall be laid down closer than five (5) feet to the interior property line measured along the curb face, except that for residential driveway approaches the distance shall not be less than three (3) feet.
- (6) The interior angle formed by the extension of the axis of a driveway approach and the centerline of the street shall fall between 45° and 90°.

(b) Driveway Approach Width.

- (1) The total amount of curb cuts or laid down curb shall not occupy more than two-thirds (2/3) of the frontage abutting the roadway of the tract of ground devoted to one use. Where adjacent owners are using or will use off-street parking as a common parking lot, or when there are no physical barriers to prevent the use of the parking area as a common parking lot, then the area in question shall be deemed to be one tract devoted to one use for purposes of this article.
- (2) The width or throat of an undivided driveway approach shall not be greater than thirty-five (35) feet for commercial or public establishments and thirty-five (35) feet for residential properties, measured at right angles to the axis of the driveway approach.
- (3) Where the driveway approach is divided by an effective physical barrier the throat of the driveway approach may be a maximum of sixty-four (64) feet in width, and shall be constructed in conformance with requirements of Plate 8A (on file with the city).
- (4) Driveway approaches for motor vehicle docks and buildings with vehicle doorways may be as wide as sixty (60) feet. Where more dock space is required, the driveway approach shall be separated by a traffic island meeting the requirements of this article. Approaches built under the provisions of this subsection need not be limited to a total width of two-thirds (2/3) of the frontage as prescribed in subsection (c) below or limited as to number of driveway approaches but must comply with all other provisions of this article.

(c) Number of Driveway Approaches Allowed.

- (1) Not more than two (2) driveway approaches shall be permitted on any tract with a frontage of one hundred (100) feet or less.
- (2) Not more than three (3) driveway approaches shall be permitted on any tract with frontage of more than one hundred (100) feet but less than three hundred (300) feet.
- (3) Not more than four (4) driveway approaches shall be allowed for any tract with more than three hundred (300) feet but less than six hundred (600) feet.
- (4) For tracts with frontage in excess of six hundred (600) feet one additional approach may be allowed for each additional three hundred (300) feet of frontage in excess of six hundred (600) feet.

(d) Intermediate Island Between Two (2) Driveway Approaches. Between any two (2) driveway approaches there shall be an intermediate island within the right-of-way of length not less than fifteen (15) feet measured along the property line and not less than fifteen (15) feet along the curb line between tangent points of return radii.

(e) Construction Details of Driveway Approaches.

- (1) Where the driveway approach and the street pavement meet, flaring of the driveway approach shall be permitted to allow safe and easy turning of the vehicle either into or out of the abutting property. The radius of the flared edge of a driveway approach controlling the turning radius of a vehicle entering the abutting property by a right turn from the adjacent outside traffic lane of the street shall be as long as practical to provide a free and safe turning movement, but shall not be less than three (3) feet. The approach of any driveway shall be of such a length as not to be less than four (4) feet from back of curb, but in every case at least of such length to reach the back edge of the sidewalk.
- (2) Where curbing exists at the edge of the pavement, the edges of a commercial driveway approach shall be delineated and the driveway approach confined by curbing through the arc of the radius of the curb return.

(f) Limitation on Use of Driveway Approaches. Driveway approaches shall not be constructed or used for angle or recessed parking. To qualify as a driveway approach, the approach must provide access to a vehicle doorway, dock or an off-street parking lot with sufficient room for the vehicle to maneuver and re-enter the street front first from said parking lot.

(1965 Code of Ordinances, Chapter 17, Article V, Section 17-137)

**Sec. 3.1238 Removal of Driveway Approaches and Recessed Parking Areas**

In case a laydown curb, driveway approach or recessed parking area has become a hazard, the city may remove such laydown curb, driveway approach or recessed parking area and replace it with standard curb and gutter and where necessary, a sidewalk. (1965 Code of Ordinances, Chapter 17, Article V, Section 17-138)

**Sec. 3.1239 Location of Devices for Servicing Vehicles**

All devices for servicing vehicles shall be so located that no part of the vehicle will extend into the right-of-way while being serviced and shall comply with applicable state law and the rules and regulations adopted by the State Board of Insurance, a copy of which is on file in the office of the city secretary entitled "Rules and Regulations for the Safe Storage, Handling and Use of Flammable Liquids at Retail Service Stations." (1965 Code of Ordinances, Chapter 17, Article V, Section 17-139)

**ARTICLE 3.1300 CROSS-CONNECTION CONTROL AND PREVENTION**

**Division 1. Generally**

**Sec. 3.1301 Cross-Connection Standards**

Every source of contamination or possible contamination from any containment which originates from or is located at a residential or commercial establishment which is connected to any public water supply or which provides water to the public shall be equipped with the protection required under the provisions of this article.

**Sec. 3.1302 Definitions**

For the purpose of this article, the following definitions apply unless the context clearly indicates or requires a different meaning. If a word or term used in this article is not contained in the following list, its definition or other technical terms used shall have the meanings or definitions listed in the most recent adopted edition of the City of Brownfield Plumbing Code and/or the Manual of Cross-Connection Control published by the Foundation for Cross Connection Control and Hydraulic Research, University of Southern California.

Air Gap. Shall mean a physical separation between the free flowing discharge end of a potable



*Brownfield Code of Ordinances*

water supply piping and/or appurtenance and an open or non-pressure receiving vessel, plumbing fixture or other device. An "approved air-gap separation" shall be at least twice the diameter of the supply pipe measured vertically above the overflow rim of the vessel, plumbing fixture or other device in no case less than one inch.

Atmospheric Vacuum Breaker Backflow Prevention Device or Atmospheric Vacuum Breaker or AVB. Shall mean a device used to prevent backsiphonage in non-health hazard conditions. This device cannot be tested and cannot prevent backpressure backflow.

Auxiliary Supply. Shall mean any water source or system other than the public water system that may be available in the building or on the property, including groundwater or surface waters used for industrial, irrigation or any other purpose.

Backflow. Shall mean the flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the water system of the city's water.

Backflow Prevention Assembly or Assembly. Shall mean an assembly to counteract back pressure or prevent backsiphonage.

Backpressure. Shall mean any elevation of pressure in the downstream piping system (by any means) above the supply pressure at the point of consideration which would cause or tend to cause a reversal of the normal direction of flow and the introduction of fluids, mixtures or substances from any source other than the intended source.

Backsiphonage. Shall mean the flow of water or other liquids, mixture or substances into the distribution pipes of a potable water supply system from any source other than its intended source caused by a sudden reduction of pressure in the potable water supply system.

Boresight or Boresight to Daylight. Shall mean providing adequate drainage for backflow prevention assemblies installed in vaults through the use of an unobstructed drainpipe.

City or the City. Shall mean the City of Brownfield acting through the city manager or any representative, inspector or employee designated by the city manager.

Commercial Establishment. Shall mean property or location which is used primarily for manufacture, production, storage, wholesaling or retailing of services which are or may be placed in the flow of commerce or any property or location which is used primarily for the provision of any service.

Commission. Shall mean the Texas Natural Resource Conservation Commission (TNRCC).

*Brownfield Code of Ordinances*

Contaminants. Shall mean any foreign material, solid or liquid, not common to the potable water supply which makes the water unfit or undesirable for human or animal consumption.

Contamination. Means the admission of contaminants into the potable water supply system.

Cross-Connection. Shall mean any connection physical or otherwise, between a potable water supply system and any plumbing fixture or any tank, receptacle, equipment or device through which it is possible for any nonpotable, used, unclean, polluted and contaminated water or other substances to enter into any part of such potable water system under any condition or set of conditions.

Cross-Connection Control Device. Shall mean any nationally approved or recognized device placed upon any connection physical or otherwise, between a potable water supply system and any plumbing fixture or any tank, receptacle, equipment or device which is designed to prevent nonpotable, used, unclean, polluted and contaminated water or other substances from entering into any part of such potable water system under any condition or set of conditions.

Customer Service Inspection. Shall mean an inspection designed to inspect and detect any actual or potential cross-connection hazards and to determine whether solder, flux, pipe or pipe fittings exceed the lead action level.

Degree of Hazard. Shall mean the low or high hazard classification that shall be attached to all actual or potential cross-connections as follows:

Health Hazard. Means an actual or potential threat of contamination of a physical or toxic nature to the public potable water system or the consumer's potable water system that would be a danger to health.

High Hazard. Means the classification assigned to an actual or potential cross-connection that potentially could allow a substance that may cause illness or death to backflow into the potable water supply.

Low Hazard. Means the classification assigned to an actual or potential cross-connection that potentially could allow a substance that may be objectionable but not hazardous to one's health to backflow into the potable water supply.

Pollution Hazard. Means an actual or potential threat to the physical properties of the water system or the potability of the public or the consumer's potable water system but which would not constitute a health or system hazard, as defined. The maximum degree of intensity of pollution which the potable water system could be degraded under this definition would cause a nuisance or be aesthetically objectionable or could cause damage

*Brownfield Code of Ordinances*

to the system or its appurtenances.

System Hazard. Means an actual or potential threat of severe danger to the physical properties of the public or consumer's potable water supply or of a pollution or contamination that would have a detrimental effect on the quality of the potable water in the system.

Director. Shall mean the city manager, the city manager's designated city inspector or his designee who is vested with the authority and responsibility for the implementation of an effective cross-connection control program and for the enforcement of the provisions of this article.

Double Check Detector Backflow Prevention Assembly or Double Check Detector or DCDA. Shall mean an assembly composed of a line-size approved double check assembly with a bypass containing a specific water meter and an approved double check valve assembly. The meter shall register accurately for very low rates of flow.

Double Check Valve Backflow Prevention Assembly or Double Check Assembly or Double Check or DC. Shall mean an assembly which consists of two independently acting, approved check valves, including tightly closing resilient seated shutoff valves attached at each end of the assembly and fitted with properly located resilient seated test cocks.

Fireline Tester. Shall mean a tester who is employed by a state approved fireline contractor and is qualified to test backflow prevention assemblies on firelines only.

General Tester. Shall mean a tester who is qualified to test backflow prevention assemblies on any domestic, commercial, industrial or irrigation service except firelines.

Mobile Unit. Shall mean any operation which may have the potential to introduce contaminants into a potable water system from a mobile source. These include but are not limited to, carpet cleaning vehicles, water hauling vehicles, street cleaning vehicles, liquid waste vehicles, power wash operations and pest control vehicles.

Non-Residential Use. Shall mean water used by any person other than a residential customer of the water supply and include all uses not specifically included in "residential uses" as defined in the city zoning ordinance.

Person. Shall mean any individual, partnership, associations, corporations, firms, clubs, trustees, receivers and bodies, politic and corporate.

Point-of-Use Isolation. Shall mean the appropriate backflow prevention within the consumer's

*Brownfield Code of Ordinances*

water system at the point at which the actual or potential cross-connection exists.

Potable Water Supply. Shall mean any water supply intended or used for human consumption or other domestic use.

Premises. Shall mean any piece of property to which water is provided including all improvements, mobile structures and structures located on it.

Premises Isolation. Shall mean the appropriate backflow prevention at the service connection between the public water system and the water user.

Pressure Vacuum Breaker Backflow Prevention Assembly or Pressure Vacuum Breaker or PVB. Shall mean an assembly which provides protection against backsiphonage, but does not provide adequate protection against backpressure backflow. The assembly is a combination of a single check valve with an AVB and can be used with downstream resilient seated shutoff valves. In addition, the assembly has suction and discharge gate valves and resilient seated test cocks which allows the full testing of the assembly.

Public Water System or System. Shall mean any public or privately owned water system which supplies water for public domestic use. The system will include all services, reservoirs, facilities and any equipment use in the process of producing, treating, storing, or conveying water for public consumption.

Reduced Pressure Principle Backflow Prevention Assembly or Reduced Pressure Principle Assembly or RP Assembly or RP. Shall mean an assembly containing two independently acting approved check valves together with a hydraulically operated, mechanically independent pressure differential relief valve located between the check valves and at the same time below the first check valve. The assembly shall include properly located resilient seated test cocks and a tightly closing resilient seated shutoff valve at the end of the assembly.

Reduced Pressure Principle Detector Backflow Prevention Assembly or Reduced Pressure Detector or RPDA. Shall mean an assembly composed of a line-size approved reduced pressure principle assembly with a bypass containing a specific water meter and an approved reduced pressure principle backflow prevention assembly. The meter shall register accurately for very low rates of flow.

Representative of the Water System. Shall mean a person designated by the City of Brownfield to perform cross-connection control duties that shall include but are not limited to, cross-connection inspections and water use surveys.

Residential Use. Shall mean water used by any residential customer of the water supply and

*Brownfield Code of Ordinances*

include single family dwellings, duplexes, multiplex, housing and apartments where the individual units are each on a separate meter; or in cases where two or more units are served by one meter, the units are full-time dwellings.

Service Connection. Shall mean the point of delivery which the water purveyor loses control of the water.

Spill-Resistant Pressure Vacuum Breaker or SVB. Shall mean an assembly containing an independently operating, internally loaded check valve and independently operating, loaded air inlet valve located on the discharge side of the check valve. This assembly is to be equipped with a properly located resilient seated test cock and tightly closing resilient seated shutoff valves attached at each end of the assembly.

Tester. Shall mean a person that is a certified backflow prevention assembly technician approved by and registered with the city and the TNRCC.

Thermal Expansion. Shall mean heated water that does not have the space to expand.

TNRCC. Shall mean the Texas Natural Resource Conservation Commission.

Used Water. Shall mean water supplied by a public water system to a water user's system after it has passed through the service connection.

Water Use Survey. Shall mean a survey conducted or caused to be conducted by the local authority designed to identify any possible sources of contamination to the potable water supply.

**Sec. 3.1303 Right-of-Way Encroachment**

No person shall install or maintain a backflow prevention assembly upon or within any city right-of-way except as provided in this section.

- (1) A backflow prevention assembly required by the city may be installed upon or within any city right-of-way only if the owner proves to the city that there is no other feasible location for installing the assembly, installing it in the right-of-way will not interfere with traffic or utilities, (and obtains a permit from the city). The city retains the right to approve the location, height, depth, enclosure and other requisites of the assembly prior to its installation.
- (2) All permits and inspections required by the city code to perform work in the right-of-way shall be obtained.

*Brownfield Code of Ordinances*

- (3) The assembly shall be installed below or flush with the surrounding grade except when it is not practicable to install it in this manner. Any assembly or portion of an assembly which extends aboveground shall be located no closer than eighteen (18) inches to the face of the curb.
- (4) The city shall not be liable for any damage done to or caused by an assembly installed in a right-of-way.
- (5) A property owner shall at the request of the city and at the owner's expense, relocate a backflow prevention assembly which encroaches upon any city right-of-way when such relocation is necessary for street or utility construction or repairs for purposes of public safety.
- (6) A person commits an offense if he/she fails to relocate a backflow prevention assembly located in or upon any city right-of-way after receiving a written order from the regulatory authority.

**Sec. 3.1304 Multiple Connections**

Any premises requiring multiple service connections for adequacy of supply and/or fire protection will be required to install a backflow assembly on each of the additional service lines to the premises. The type of assembly will be determined by the degree of hazard that could occur in the event of an interconnect between any of the buildings on the premises.

**Sec. 3.1305 Protection Required; Installation**

(a) The backflow prevention assembly protection which is required under this article shall be any of the duly nationally recognized and authorized backflow prevention assemblies listed in a State of Texas approved plumbing code, or as determined by the regulatory authority. Each backflow prevention assembly must have been approved by the regulatory authority prior to installation. Failure to obtain such approval prior to installation of the backflow prevention assembly may result in the backflow prevention assembly failing to meet final approval by the regulatory authority. The city shall determine the type and location of the backflow assembly to be installed within the area served by the City of Brownfield. The assembly will be required in each of the following circumstances, but is in no way limited to the following circumstances:

- (1) The nature and extent of any activity on the premises, or the materials used in connection with any activity on the premises or materials stored on the premises could contaminate or pollute the potable water supply.
- (2) Premises having any one or more cross-connections and the cross-connection(s) is

*Brownfield Code of Ordinances*

- protected by an atmospheric vacuum breaker device (AVB).
- (3) Internal cross-connections are present that are not correctable.
  - (4) Intricate plumbing arrangements that are present which make it impractical to ascertain whether cross-connections exist.
  - (5) There is unduly restricted entry so that inspections for cross-connections cannot be made with sufficient frequency to assure that cross-connections do not exist.
  - (6) Installation of an approved backflow prevention assembly is deemed to be necessary to accomplish the purpose of these regulations in the judgment of the city.
  - (7) An appropriate cross-connection survey report form has not been filed with the inspection department of the City of Brownfield upon request of the city.
  - (8) A fire suppression system that is connected to the city's water system.
  - (9) All new construction if deemed necessary in the customer service inspection. The type of assembly required will be determined by the degree of hazard.
  - (10) When a building is constructed on commercial premises, and the end use of such building is not determined or could change, a reduced pressure principle backflow prevention assembly may be installed at the service connection that supplies water for public domestic use.
  - (11) Any used water return system.
  - (12) In the event a point-of-use assembly has not had the testing or repair done as required by this article, a premises isolation assembly will be required.
  - (13) If it is determined that additions or alterations have been made to the plumbing system without obtaining proper permits, premises isolation may be required.
  - (14) All multistory buildings or any building with a booster pump or elevated storage tank.
  - (15) Retrofitting will be required on all high hazard connections and wherever else the city deems necessary to retrofit.
- (b) All backflow prevention assemblies installed after the effective date of this article shall be installed in a manner designed to facilitate ease of inspection by the city. Any currently installed

backflow prevention assemblies which are located in inaccessible locations, or where the tester is subject to physical danger shall be relocated to approved locations following current national guideline standards.

**Sec. 3.1306 Testing of Assemblies**

(a) All backflow prevention assemblies shall be inspected and tested or caused to be inspected and tested by the city in each of the following circumstances:

- (1) Immediately after installations;
- (2) Whenever the assembly is moved;
- (3) A minimum of once a year;
- (4) Premises that have been vacated and unoccupied for one year, prior to reoccupancy;
- (5) Immediately after repairs.

(b) All assembly testing shall be performed by a state certified backflow prevention assembly tester approved by the regulatory authority.

(c) Duly authorized employees of the city bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this article. Persons and occupants of premises which are provided water service by the city, either directly or indirectly, shall allow the city or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, testing, records examination or in the performance of any of their duties. Where persons or occupants of premises have security measures in force which would require proper identification and clearance before entry into their premises, the persons and occupants of the premises shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city will be permitted to enter without delay for the purposes of performing their specific responsibilities.

(d) The city is not liable for damage to a backflow prevention assembly which may occur during testing.

(e) A water use survey may be conducted at any establishment located in the city which is served by a public water supply or which provides water to the public. Upon determination that the establishment falls under the provisions of this article and requires a backflow prevention assembly, a notice to abate the condition or to install the proper backflow prevention assembly



shall be issued.

(f) It is the responsibility of the person who owns or controls property to have all assemblies tested in accordance with this article. Assemblies may be required to be tested more frequently if the regulatory authority deems necessary.

(g) All results from assembly testing by a certified backflow prevention assembly tester shall be placed on a form that is purchased by the tester from the city for an established fee.

### **Sec. 3.1307 Thermal Expansion**

It is the responsibility of any person who owns or controls property to eliminate the possibility of thermal expansion if a closed system has been created by the installation of a backflow assembly.

### **Sec. 3.1308 Pressure Loss**

Any reduction in water pressure caused by the installation of a backflow assembly is not the responsibility of the city.

### **Sec. 3.1309 Residential Service Connections**

Any person who owns or controls any residential property which has been determined to have an actual or potential cross-connection will be required to eliminate the actual or potential cross-connection or have an approved backflow assembly installed in accordance with this article.

### **Sec. 3.1310 Rental Properties**

Any person who owns or controls property is responsible for the installation, testing and repair of all backflow assemblies on their property.

### **Sec. 3.1311 Customer Service Inspection**

(a) Pursuant to TNRCC Water System Regulations, a customer service inspection for cross-connection control shall be completed by the city prior to providing continuous water service in each of the following circumstances:

- (1) Water service to a newly constructed facility or previously nonexistent premises.
- (2) After any material improvement to building(s) or premises.

- (3) Any correction or addition to the plumbing of any facility or premises.
  - (4) The city deems it necessary, including any premise which has been disconnected as a result of water leaks.
  - (5) Prior to re-occupancy, any premises which have been vacant and without service.
- (b) Permanent water service shall not be supplied to a new construction facility(s) until after the customer service inspection is completed.
- (c) Temporary water service which poses a potential cross-connection threat to the potable water supply shall be protected by an approved backflow prevention assembly.

**Sec. 3.1312 Installation Guidelines and Requirements for Backflow Prevention Assemblies**

- (a) General - to ensure proper operation and accessibility of all backflow prevention assemblies, the following national guideline requirements shall apply to the installation of these assemblies.
- (1) Backflow prevention assemblies shall be installed in accordance with the current TNRCC Rule and these regulations. The assembly installer must obtain the required plumbing permits and have the installation inspected by the city.
  - (2) At facilities which require a backflow prevention assembly to be installed at the point of delivery of the water supply, such installation of the assembly must be before any branch in the line and on private property located just inside the boundary between the city right-of-way and the landowner's property. The city may specify other areas for installation of the assembly. Assemblies that must be installed or are located on city rights-of-way are the responsibilities of the business or entity that the water line is serving.
  - (3) The assembly must be protected from freezing and other severe weather conditions.
  - (4) All backflow prevention assemblies shall be of a type and model approved by the city.
  - (5) All vertical installations of backflow assemblies must have prior approval by the city.
  - (6) Assemblies that are larger than 4 inches and installed more than 5 feet above floor

*Brownfield Code of Ordinances*

level must have a suitable platform for use by testing or maintenance personnel.

- (7) Unprotected bypass lines are prohibited. Pipefittings which could be used for connecting a bypass line must not be installed.
  - (8) Premises where an uninterrupted water supply is critical should be provided with two assemblies installed in parallel. They should be sized in such a manner that either assembly will provide the maximum flow required.
  - (9) Lines should be thoroughly flushed prior to installation. A strainer with blowout tapping may be required ahead of the assembly.
  - (10) All facilities that require continuous, uninterrupted water service and are required to have a backflow assembly must make provisions for the parallel installation of assemblies of the same type so that testing, repair and maintenance can be performed.
  - (11) The property owner assumes all responsibility for any damages resulting from installation, operation and/or maintenance of a backflow assembly. The owner shall be responsible for keeping all backflow prevention assembly vaults reasonably free of silt and debris.
  - (12) Upon completion of installation, the city shall be notified and all assemblies must be inspected and tested. All assemblies must be registered with the city and shall provide the date of installation, manufacturer, model, type, size, serial number of the backflow assembly and initial test report.
- (b) Reduced Pressure Principle Backflow Prevention Assemblies (RPs) - may be utilized at premises where a substance is handled that would be hazardous to health if introduced into the potable water system. The RP is nominally used in locations where an air gap is impractical. The RP shall be effective against both backsiphonage and backpressure.
- (1) RPs must be sized to provide an adequate supply of water and pressure for the premises being served. Flow characteristics are not standard. Consult manufacturer's specifications for specific performance data.
  - (2) The assembly must be readily accessible for testing and maintenance and must be located in an area where water damage to building or furnishing would not occur from relief valve discharge. The property owner assumes all responsibility for any damage caused by water discharge from an RP assembly. An approved air gap shall be located at the relief valve orifice of RP assemblies.

*Brownfield Code of Ordinances*

- (3) No part of a reduced pressure principle backflow prevention assembly shall be submerged in water or installed in a location subject to flooding. RPs are typically installed above grade in well drained areas, but may be installed below grade (ground level) if a boresight drain to daylight is provided. The drain shall be of adequate capacity to carry the full rated flow of the assembly and shall be screened on both ends.
  - (4) Enclosures shall be designed for ready access and sized to allow for the minimum clearances established below. Removable protective enclosures are typically installed on the smaller assemblies. Daylight drain ports must be provided to accommodate full pressure discharge from the assembly.
  - (5) Assemblies 2 inches and smaller shall have at least a 6 inch clearance on both sides and on top of the assembly, and 12 inches below and behind the assembly. All assemblies larger than 2 inches shall have a minimum of 12 inches on the back side, 24 inches on the test cock side, and the relief valve opening shall be at least 12 inches plus nominal size of assembly above the floor or highest possible water level. Headroom of 6 feet is required in vaults without a fully removable top. A minimum access opening of 36 inches is required on all vault lids.
  - (6) All RP assemblies must be tested in accordance with this article. Tests are the responsibility of the assembly owner. The owner must notify the city upon installation of any backflow prevention assembly.
  - (7) Variances from these specifications will be evaluated on a case-by-case basis. Any deviations must have prior written approval of the city.
- (c) Reduced Pressure Principle Detector Backflow Prevention Assemblies RPDA - may be utilized in all installations requiring a reduced pressure principle backflow prevention assembly and detector metering.
- (1) RPDAs shall comply with the installation requirements applicable for reduced pressure principle backflow assemblies RP.
  - (2) The line-size RP assembly and the bypass RP assembly must each be tested. A separate test report for each assembly must be completed by the certified tester.
- (d) Double Check Valve Backflow Prevention Assemblies (DC) - may be utilized at premises where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system.

*Brownfield Code of Ordinances*

- (1) DCs must be sized to provide an adequate supply of water and pressure for premises being served. Consult manufacturer's specifications for specific performance data.
- (2) Premises where an uninterrupted water supply is critical should be provided with two assemblies installed in parallel. Assemblies should be sized in such a manner that either assembly will provide the minimum water requirements while the two together will provide the maximum flow required.
- (3) The assembly shall be readily accessible with adequate room for testing and maintenance. DCs may be installed below grade, providing all test cocks are fitted with brass pipe plugs. All vaults shall be well drained, constructed of suitable materials, and sized to allow for the minimum clearances established below.
- (4) Assemblies 2 inches and smaller shall have at least a 6 inch clearance below and on both sides of the assembly, and if located in a vault, the bottom of the assembly shall be not more than 24 inches below grade. All assemblies larger than 2 inches shall have a minimum clearance of 12 inches on the back side, 24 inches on the test cock side, and 12 inches below the assembly. Headroom of 6 feet is required in vaults without a fully removable top. A minimum access opening of 36 inches is required on all vault lids. "Y" pattern double check valve assemblies shall be installed so that the checks are horizontal and the test cocks face upward. These clearance standards apply to all assemblies installed in vaults, enclosures and meter boxes.
- (5) Vertical installations of DCs are allowed only on sizes up to and including 4 inches that meet the following requirements:
  - (A) Internally spring-loaded check valves;
  - (B) Flow is upward through assembly;
  - (C) Manufacturer states their assembly can be used in a vertical position;
  - (D) Approved by inspector.
- (6) All DCs must be tested in accordance with this article. Tests are the responsibility of the assembly owner. The owner must notify the regulatory authority upon installation of any backflow prevention assembly.
- (7) Variances from these specifications will be evaluated on a case-by-case basis. Any deviations must have prior written approval of the city.

*Brownfield Code of Ordinances*

(e) Double Check Detector Backflow Prevention Assemblies (DCDA) - may be utilized in all installations requiring a double check valve assembly and detector metering.

- (1) DCDA's shall comply with the installation requirements applicable for double check valve assemblies (DCs).
- (2) The line-size DC assembly and the bypass DC assembly must each be tested. A separate test report for each assembly must be completed by the certified tester.

(f) Pressure Vacuum Breaker Backflow Prevention Assemblies (PVB) - may be utilized at point-of-use protection only and where a substance is handled that would be objectionable but not hazardous to health if introduced into the potable water system. PVBs protect against backsiphonage only and shall not be installed where there is potential for backpressure.

- (1) Assembly shall be installed a minimum of 12 inches above highest downstream piping.
- (2) PVBs shall not be installed in an area subject to flooding or where damage would occur from water discharge.
- (3) The assembly shall be readily accessible for testing and maintenance, with a minimum clearance of 12 inches all around the assembly.
- (4) All PVBs must be tested in compliance with this article. Tests are the responsibility of the assembly owner. The owner must notify the regulatory authority installation of any backflow prevention assembly.
- (5) Variances from these specifications will be evaluated on a case by case basis. Any deviations must have prior written approval of the regulatory authority.

(g) Spill Resistant Pressure Vacuum Breaker Backflow Prevention Assemblies (SVB) -may be utilized in all installations requiring a pressure vacuum breaker. SVBs shall comply with the installation requirements applicable for pressure vacuum breaker backflow prevention assemblies.

**Sec. 3.1313 Air Gap Separation**

Air gaps provide maximum protection from backflow hazards and should be utilized at all locations where "high" hazardous substances are at risk of entering the potable water system.

- (1) An air gap separation shall be at least twice the diameter of the supply pipeline

measured vertically above the top rim of the receiving vessel and in no case less than 1 inch. If splashing is a problem, tubular screens may be attached or the supply line may be cut at a 45° angle. The air gap distance is measured from the bottom of the angle. Hoses are not allowed.

- (2) Air gap separations shall not be altered in any way without prior approval from the regulatory authority and must be available for inspection at all reasonable times.
- (3) Side walls, ribs or similar obstructions do not affect air gaps when spaced from the inside edge of the spout opening a distance greater than three times the diameter of the effective opening for a single, or a distance greater than four times the effective opening for two intersecting walls.

### **Sec. 3.1314 Fire Hydrant Protection**

An approved double check device backflow prevention assembly (DCD) or reduced pressure detector assemblies (RPDA) shall be the minimum protection for fire hydrant water meters which are being used for a temporary water supply during any construction or other uses which would pose a potential hazard to the public water supply. A RPDA must be installed if any solution other than the potable water can be introduced into the sprinkler system.

- (1) It is the responsibility of all persons engaging in the use and rental of a fire hydrant water meter to abide by the conditions of this article. All fire hydrant water meter rentals shall meet the current requirements as provided for by the city.
- (2) Only City of Brownfield fire hydrant water meters with approved backflow prevention assemblies are allowed to be used within the city limits.
- (3) A refundable deposit is required to insure the return of all water meter and backflow assemblies to the city. Failure to return the assemblies can result in the forfeiture of deposit and/or enforcement action being taken against the responsible party, as allowed for in the penalty section of this article. (See Fees)
- (4) All unapproved fire hydrant meters which are found to be in use in the City of Brownfield will be confiscated and enforcement action taken against the responsible party, as allowed for in the enforcement section in this article.

### **Sec. 3.1315 Responsibilities of Property Owner**

(a) It is the responsibility of all property owners and/or persons in charge of any premises to abide by the conditions of this article and to comply with the following:

*Brownfield Code of Ordinances*

- (1) Payment of all costs associated with this article and the purchase, installation, testing and repair of backflow prevention assemblies. (See Section 3.1321 herein.)
- (2) Install and maintain all backflow prevention assemblies in accordance with this article and acceptable industry practice.
- (3) All commercial establishments shall cause to have all backflow prevention assemblies on their premises tested annually. Such testing must be conducted by a certified cross-connection tester who is registered with the city.
- (4) Maintain all backflow prevention assemblies in proper working order at all times, including repair as required.
- (5) Maintain all backflow prevention assemblies in a manner which allows them to be tested by a method that has been approved by the regulatory authority.
- (6) All records related to backflow prevention assembly installation, testing and repair shall be maintained on the premises for a minimum of three (3) years.

(b) Certified Backflow Prevention Assembly Tester - shall comply with the following requirements:

- (1) Annually register with the regulatory authority and pay the required fee. (See Section 3.1321 herein.)
- (2) Maintain testing equipment in proper working condition/calibration.
- (3) Maintain the design or operation characteristics of an assembly.
- (4) Ensure that devices are tested according to accepted industry practice and TNRCC regulations.
- (5) Enter required testing data, including test gauge serial numbers on cross-connection test forms obtained from the regulatory authority.
- (6) Report test results to the regulatory authority within thirty (30) days of testing.
- (7) Provide a copy of the completed test report to the property owners and/or persons in charge of any premises.



- (8) Maintain testing and/or repair records for a minimum of three (3) years.

**Sec. 3.1316 Backflow Prevention Assembly Tester Certification - Registration Required**

Only approved TNRCC licensed backflow prevention assembly testers can test backflow prevention assemblies in the City of Brownfield. Testers must register annually with the city, provide proof of TNRCC certification and provide proof that testing equipment is able to maintain a calibration of plus or minus 0.2 psid accuracy and pay an annual nonrefundable tester registration fee.

**Sec. 3.1317 Fees**

(a) There shall be an annual non-refundable registration fee for each non-residential backflow prevention assembly device. This fee will be invoiced and mailed to you and relates solely to the matters covered in this article and are separate from other fees chargeable by the city.

(b) There shall be a testing fee for each separate backflow prevention assembly on which a test is performed by the city. This fee applies to but is not limited to all newly installed backflow devices which the city may choose to randomly test. If upon inspection or testing of a newly installed backflow prevention assembly it is deemed not to be working properly, it is the responsibility of the property owners and/or persons in charge of any premises to make necessary repairs. A retest fee will be assessed for each retest. (See Cross-Connection Control Fees Title III Chapter 31 Section 31.01(P) )

**Sec. 3.1318 Compliance for Lawn Irrigation**

For all lawn irrigation system installations a permit shall be required. Such permit shall be issued by the plumbing inspection department. Installation requirements must comply with the current city plumbing code and or guidelines for the appropriate device found in this article. Interconnections of the potable water supply with an alternate water source is prohibited unless appropriate backflow protection is installed. High hazard backflow protection devices must be installed if any mechanical injection stations are used with the irrigation system.

**Sec. 3.1319 Mobile Units**

The connection of a mobile unit to any potable water system is prohibited unless such connection is protected by an air gap or an approved backflow prevention assembly. Prior approval and annual device testing of any backflow prevention assembly must be received from the city before connecting to any potable water system.

**Sec. 3.1320 Enforcement**

*Brownfield Code of Ordinances*

(a) This article shall be enforced by the city manager or the manager's designated representatives or employees.

(b) The city shall inspect and initially test or cause to be tested, all backflow prevention assemblies installed pursuant to the requirements of this article. For new facilities, permanent water service shall not be provided until all backflow prevention assemblies have been tested and are operational. Except in cases where the testing of backflow prevention assemblies must be delayed until the installation of internal production or auxiliary equipment, the regulatory authority shall not approve a certificate of occupancy until all backflow prevention assemblies have been tested and are operational. The city shall not be liable for damage caused to any backflow prevention assembly as a result of the inspection or testing.

(c) Violations.

- (1) A person commits an offense if there is failure to maintain backflow prevention assemblies in compliance with this section.
- (2) A person commits an offense if there is failure to comply with a repair order issued by the city.
- (3) A person commits an offense if backflow from premises owned, operated or managed by the person enters the public water supply system.
- (4) A person commits an offense if there is a failure to pay any fees required by this article.
- (5) A person commits an offense by violating any section of this article.
- (6) A person commits an offense if discontinued or disconnected water service to premises under this article is reinstated except as directed by the city.
- (7) A person in charge of any facility commits an offense by allowing an unregistered tester to perform testing work at their establishment.
- (8) A person commits an offense by testing backflow prevention assembly within the city without being registered with the regulatory authority.
- (9) A person commits an offense by testing backflow prevention assembly within the city without being certified by the TNRCC.

*Brownfield Code of Ordinances*

(d) Penalty.

- (1) A person who violates any provision of this article is guilty of a misdemeanor and upon conviction is punishable as set forth in Section 1.109 of this code, for each act of violation and for each day or part of a day during which the violation is committed, continued or permitted.
- (2) In addition to proceeding under the authority of subsection (b)(1) of this section, the city is entitled to pursue all other criminal and civil remedies to which it is entitled under authority of statutes or other ordinances against a person committing any violation of this article including injunction and civil penalties.

(e) Sanction for Failure to Pay Inspection Fees. In addition to sanctions provided for by this article, the city is entitled to exercise sanctions provided for by other ordinances of the city.

(f) A certified tester's registration may be reviewed and revoked by the city if it is determined that the tester:

- (1) Has falsely, incompletely or inaccurately reported assembly reports;
- (2) Has used inaccurate gauges;
- (3) Has used improper testing procedures; or
- (4) Has created a threat to public health or the environment.

**Sec. 3.1321 Backflow Prevention and Registration Fees**

(a) Backflow Prevention Assembly Registration Fees. There is an annual nonrefundable registration fee for each nonresidential backflow prevention assembly device per each separate device as provided for in the fee schedule found in the appendix of this code.

(b) Certified Backflow Prevention Assembly Tester Registration Fee. Annual registration fee for approved testers shall be a nonrefundable fee as provided for in the fee schedule found in the appendix of this code.

(c) Deposit Fee for Fire Hydrant Water Meter with Backflow Prevention. There shall be a refundable upon return rental deposit fee for fire hydrant water meters with backflow prevention devices as provided for in the fee schedule found in the appendix of this code.

(d) Private Contractors Testing Fees. There shall be no additional charges by the city for

testing conducted by "private contractors."

(Ordinance 1852 adopted 12/7/00)

**Secs. 3.1322–3.1340 Reserved**

**Division 2. Irrigation Systems**

**Sec. 3.1341 Definitions**

For purposes of this division, the following definitions shall apply:

*Backflow.* The flow in the direction opposite to the normal flow or the introduction of any foreign liquids, gases, or substances into the water system of the city's water.

*Handheld Hose.* A hose attended by one person, fitted with a manual or automatic shutoff nozzle.

*Hose-End Sprinkler.* A sprinkler that applies water to landscape plants that is piped through a flexible, movable hose.

*Impervious Surface Area.* Any structure or any street, driveway, sidewalk, patio or other surface area covered with asphalt, concrete, brick, paving, tile, or other material preventing water from penetrating the ground.

*Irrigation Device.* Any manually operated or automated sprinkler head, hose, faucet, hose-end sprinkler, or a soaker hose or combination thereof, that sprays water in the air or any other device capable of irrigating, in whole or in part landscape lawns or landscape plants.

*Irrigation System.* Also referred to as an in-ground or permanent irrigation system, a system with fixed pipes and emitters or heads that apply water to landscape plants.

*Landscape Irrigation or Landscape Irrigation Use.* Water used for the irrigation and maintenance of landscaped areas, whether publicly or privately owned, including residential and commercial lawns, gardens, golf course greens, tees, and fairways, parks, athletic fields, street or alley rights-of-way and medians.

*Landscape Plant.* Any member of the Kingdom Plantae, including any tree, shrub, vine, herb, flower, succulent, groundcover or grass species, that grows or has been planted out-of-doors.

*New Landscape Plant or Material.* Any plant or seed planted in or transplanted to an area within

*Brownfield Code of Ordinances*

such period of time as to accomplish a reasonable establishment and maintenance of growth.

Park. A tract of land, other than a golf course, maintained by a city, private organization, or individual, as a place of beauty or of public recreation.

Pervious Surface. Any ground surface which can absorb water or other liquids.

Soaker Hose. Plastic or flexible hose that weeps water across the entire length, based on water pressure, directing to the plants' roots and connects directly to a flexible hose or hose bib.

Sprinkler or Sprinkler Head. An emitter that applies water to the landscape plants in a stream that travels through the air. Sprinkler irrigation can be applied by an irrigation system or hose-end sprayer or a soaker hose that sprays water in the air.

Subsurface Drip. Plastic or flexible hose that weeps water across the entire length, based on water pressure, directing to the plants' roots. But it does not connect directly to a flexible hose or hose bib.

Turf. A surface layer of earth containing maintained grass with roots.

Zonal Irrigation System. An irrigation system which segregates by stations, areas of shrubs, ground cover, bedding plants, and turf to accommodate a diversity of watering requirements.

**Sec. 3.1342 Landscaping Irrigation Systems**

(a) Any landscape irrigation system installed pursuant to a permit prescribed by this division shall be designed and installed in a manner that prevents the following:

- (1) System operation during periods of weather, as described in subsection (d) of this section, or in a manner to create a hazard to vehicular or pedestrian traffic;
- (2) Use of spray or rotary sprinkler heads within landscaped areas of 4 feet in width or less, when adjacent to public rights-of-way, or impervious areas that drain to public rights-of-way;
- (3) System operation outside of the manufacturer's published recommendations;
- (4) Intentional sprinkler head/emitter discharge or overspray onto nonlandscaped or nonturf areas, including without limitation, public streets, alleys, or other impervious areas that drain onto public streets or alleys; and

*Brownfield Code of Ordinances*

(5) Significant water runoff.

(b) A landscape irrigation system designed and/or installed by a licensed irrigator/homeowner in accordance with the criteria set forth in this section shall be deemed to be in compliance with subsection (a) of this section if said licensed irrigator/homeowner certifies in writing to the city water department that the landscape irrigation system has been designed and installed in accordance with subsection (a) of this section. This certification shall be provided to the city water department at the time of requesting final inspection of the system.

(c) Automatic irrigation systems shall:

(1) Be maintained in compliance with the provision of this section; and

(2) Be rendered inoperative pending repairs if damaged in a manner that results in leakage or excessive discharge of water from broken components.

(d) Any person installing automatic sprinkler systems in or on property, other than those listed below, pursuant to a permit to install the irrigation system prescribed by this division may purchase and install separate water meters for irrigation purposes only. Said meter shall not provide water for any other use and shall include a normally closed master valve. The irrigation system shall include a freeze sensor rendering irrigation inoperative at the minimum 37 degrees Fahrenheit and shall include rain sensors set to render the irrigation system inoperative at 1/8 inches of moisture or more.

(e) Any request for an alternative system from those required in this section shall be heard and determined by the plumbing board in accordance with subsection (g) appearing below.

(f) Violations for this section shall be as follows:

(1) Any person, landowner, building owner or occupant who shall violate any of the provisions of this section or who shall fail to comply with any of the provisions of this section commits an offense.

(2) A person commits an offense if he installs or operates an automatic sprinkler system or irrigation device in violation of any provision of this section, or of any applicable state or local law.

(g) In order to determine the suitability of alternate materials and methods of construction and to provide for: (1) reasonable interpretation of the provisions of this division; (2) to determine exceptions to the requirements in this code; and (3) to determine variances to the requirements of this code, an application may be submitted to the city's plumbing board.

- (1) Scope. The city's plumbing board shall, except as provide herein, be subject to the rules and regulations as adopted by the other boards of this code regarding the conduct of its investigations, meetings, hearings, and rendering of all decisions and findings.
- (2) Hearings. Application for hearings shall be as follows:
  - (A) The owner of property intending to install, alter, change, convert, repair or operate a landscape irrigation system on said property in conformance with pertinent governing ordinances of the city, shall in case when compliance with such codes present a practical difficulty or unnecessary hardship, prior to such installation, reparation, alteration, change, conversion, or operation, make written application to the plumbing board, on forms to be furnished by the city's water department, for a recommendation of an alternative system or alternative watering times and/or conditions required by this division.
  - (B) Each applicant for an alternate system to that required by this code shall, upon making an application, submit to the plumbing board sufficient technical data and other information to demonstrate that the new method or device is equivalent in quality, strength, effectiveness and safety to the prescribed in this division.
  - (C) Each applicant for exceptions to the watering times and/or conditions to that prescribed by this division shall, upon making such application, submit to the plumbing board sufficient technical data and other information to demonstrate that due to special conditions, a literal enforcement of this division would result in unnecessary hardship and that the requested exception is not contrary to the public interest. The plumbing board may grant such exception subject to any conditions deemed necessary or advisable by the plumbing board.
- (3) Limitation of Authority. The plumbing board shall have no authority relative to interpretation of the administrative provisions or requirements as set forth in this division, except as set forth herein, be empowered to waive requirements and may grant exceptions in the event appropriate findings as set forth in this code are made.

### **Sec. 3.1343 Operation of Irrigation Systems or Irrigation Devices**

- (a) Landscape irrigation utilizing water, in whole or in part, obtained from the city water system, is prohibited except during the times between 6:00 p.m. and 10:00 a.m. The city manager, or his/her designee, may, in the event he/she deems necessary the further restriction of

*Brownfield Code of Ordinances*

landscape irrigation to certain days of the week or other restrictive irrigation schedules, recommend to the city council the adoption of an order adopting such restrictive landscape irrigation schedule.



*Brownfield Code of Ordinances*

(b) Subsection (a) of this section shall not apply to the following irrigation activities:

- (1) Subsurface or soaker hose type irrigation systems;
- (2) Irrigation using handheld hoses that are manually attended at all time of operation;
- (3) Short-term operation of an automatic irrigation system solely for the purposes of testing the proper operation of said system; or
- (4) Irrigation of new landscape material by an automatic irrigation system or irrigation device for a period no longer than three (3) weeks after the landscape material has been installed.

(c) A person commits an offense if he knowingly or recklessly, on premises owned, leased, or managed by the person, operates a lawn or landscape irrigation system or device that:

- (1) Irrigates at any time prohibited by subsection (a) above;
- (2) Irrigates during periods of freezing weather or during precipitation events described in Section 3.1342(d);
- (3) Does not have backflow prevention as required by this division;
- (4) Has any controllable leak, including without limitation, broken or missing sprinkler head(s), leaking valve(s), or leaking or broken pipe(s);
- (5) Creates a misting due to excessive water pressure; or
- (6) Causes significant water runoff.

**Sec. 3.1344 Penalty**

(a) Violation of any provision of this division, as set forth herein, shall be deemed a misdemeanor punishable as provided in Section 1.109 of this code. Additionally, a violation of any provision of this division shall be deemed to be a nuisance under Section 1.109 of this code.

(b) In considering the amount of fine to be assessed upon conviction of an offense under sections in this division, the court may consider the following:

- (1) The volume of water released;

*Brownfield Code of Ordinances*

- (2) The degree of hazard, including hazard to health, safety or welfare of the citizens of the city, and/or the environmental or natural resources;
- (3) The number of prior violations or complaints of violations of the sections in this division;
- (4) The person's cooperation with the city to eliminate the release or runoff;
- (5) The weather conditions at the time the subject violation occurred; and
- (6) The site plan and shape of the subject property.

(Ordinance 2051 adopted 8/7/14)

**ARTICLE 3.1400 INTERNATIONAL PLUMBING CODE\*(8)**

**Sec. 3.1401 International Plumbing Code Adopted**

A certain document, three (3) copies of which are in file in the office of the city secretary, being marked and designated as the International Plumbing Code, 2012 edition, including appendix chapters B–G, as published by the International Code Council, be and is hereby adopted as the plumbing code of the city for regulating and governing the design, construction, quality of materials, erection, installation, alteration, location, relocation, replacement, addition to, use or maintenance of plumbing systems; providing for the issuance of permits and collection of fees therefor; and each and all regulations, provisions, penalties, conditions and terms of said plumbing code on file in the office of the city secretary are hereby referred to, adopted, and made a part hereof, as if fully set out in this article, with the additions, insertions, deletions and changes, if any, prescribed in Section 3.1402 of this article. (Ordinance 2033 adopted 1/17/13)

**Sec. 3.1402 Additions and Deletions**

The following changes are hereby made to the published version of the International Plumbing Code on file in the office of the city secretary. The changes contained herein shall be construed as a part of the published code and in the event of a conflict between these provisions and their corresponding provisions in the published code, these provisions shall control. (Ordinance 1895 adopted 4/1/04)

*Section 101.1* Insert: City of Brownfield (Ordinance 1942, pt. 1, adopted 10/19/06)

*Amend Section 101.5* entitled: Indemnity Required” to read as follows:

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Section 101.5 entitled “INSURANCE, INDEMNITY REQUIRED”

Before any person, firm or corporation shall engage in the business of a landscape architect or landscape irrigator in the city, he, it, or they shall first obtain the proper license and deposit with the city, a good and sufficient insurance policy, which shall be payable to the city, and conditioned upon their faithful observance of all regulations laws and ordinances pertaining to landscaping. Further, the city shall be indemnified and held harmless from the following:

- a. All claims arising from accidents and/or damage of any character whatsoever caused by the negligence of such person, firm, or corporation;
- b. Any inadequate work done either by themselves, their agents or employees.

(Ordinance 2033 adopted 1/17/13)

*Reword Section 103.1 to read as follows:*

**103 DEPARTMENT OF PLUMBING INSPECTION**

**103.1 PLUMBING INSPECTOR.**

The city manager shall appoint the plumbing inspector and any assistants necessary to aid him in the discharge of duties. Such appointment shall be subject to the confirmation of the city council. The person chosen to fill this office shall be of good moral character; shall be possessed of such executive ability, training and experience as is required for the performance of his duties in the enforcement of this code. He shall receive such compensation and serve for such term as may be fixed by the governing body. Any reference herein or in the plumbing code to “code official” shall be construed to be one and the same as the “plumbing inspector.”

*Delete Sections 103.2 and 103.3 relating to the Department of Plumbing Inspection.*

*Reword Section 108.4 to read as follows:*

**Violation Penalties.**

Any person, firm, corporation, or agent who shall violate a provision of this code or of state law, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, install, alter or repair plumbing work in violation of the approved construction

*Brownfield Code of Ordinances*

documents or directive of the plumbing inspector, or of a permit or certificate issued under the provisions of this code, shall be guilty of a misdemeanor, punishable by a fine of not more than \$2,000.00. Each day that a violation continues after due notice has been served shall constitute a separate offense. Notice shall be sufficient if delivered in accordance with Section 109.3.1.

(Ordinance 1895 adopted 4/1/04)

*Section 108.5* Insert “not less than \$1.00 or more than \$2,000.00.” (Ordinance 1942, pt. 1, adopted 10/19/06)

*Reword Section 109.2 to read as follows:*

**109 MEANS OF APPEAL**

**109.2 MEMBERSHIP OF BOARD**

There is hereby created a six member plumbing, gas and mechanical board consisting of:

- (1) A licensed master plumber
- (2) A licensed journeyman plumber
- (3) A building contractor
- (4) The city manager

(Ordinance 1895 adopted 4/1/04)

- (5) A designated representative of the South Plains Public Health District  
(Ordinance 1942, pt. 1, adopted 10/19/06)
- (6) Landscape irrigator

The plumbing inspector shall be an ex-officio, nonvoting member of said board.

Members of the board shall be appointed by the city council and shall hold office for terms of 2 years, or until their successors are appointed and have qualified. All members are subject to removal by the city council with or without cause.

The city manager and the sanitarian shall be eligible to serve only so long as they hold

*Brownfield Code of Ordinances*

office.

A majority of the board shall constitute a quorum for the transaction of business.

*Reword Section 109.2.6 to read as follows:*

**109.2.6 COMPENSATION OF MEMBERS**

All members shall serve without compensation.

*Add Section 109.3.1 to read as follows:*

**109.3.1 DELIVERY OF NOTICE**

Delivery may be accomplished by personal delivery to the owner or the owners agent or contractor or by certified mail return receipt requested or by posting a notice at the entrance of the structure. A timely properly perfected appeal shall stay the decision of the plumbing inspector until such time as a decision is rendered by the board.

*Add Section 109.8 to read as follows:*

**109.8 ADVISORY RESPONSIBILITY OF THE BOARD**

The board shall submit to the city council such recommendations for the improvement and revision of this code as it may from time to time deem necessary and proper in light of the development of new materials, methods or techniques which would result in a better and or more economical installation. All requests for use of materials or methods not covered in this code shall be fully supported by factual evidence, or prior approval, from a recognized testing agency or such impartial qualified authority acceptable to the board.

(Ordinance 1895 adopted 4/1/04)

*Add sentence to the end of definition of BUILDING SEWER in Section 202 as follows:*

**BUILDING SEWER:** The lateral line shall be the responsibility of the property owner.

(Ordinance 2033 adopted 1/17/13)

*Add additional Definitions in Section 202 as follows:*

**LANDSCAPE ARCHITECTS.** A landscape architect is any person licensed to practice or teach landscape architecture in this state.

**LANDSCAPE IRRIGATOR.** A landscape irrigator means a person, corporation, partnership or other legal entity duly licensed in this state who has and maintains a regular place of business, and who, by himself, or through a person or persons in his employ, sells, designs, consults, installs, maintains, alters, repairs, or services any landscape irrigation system or yard sprinkler system which may be connected to any private or public potable water supply or water supply system.

*Brownfield Code of Ordinances*

*Add new Section 306.5 as follows:*

**306.5 SINGLE TRENCH PROHIBITED**

Water service pipes or any underground water pipes shall not be run or laid in the same trench as the building sewer or drainage piping.

*Add new Section 306.6 as follows:*

**306.6 EXCAVATIONS AND PUBLIC PROTECTION REQUIREMENTS**

If it is necessary to keep a ditch open overnight, approved barricades must be furnished and installed by the owner or contractor. Ditches may not remain open longer than 48 hours.

*Add new Section 312.9.3 as follows:*

**312.9.3 REASONABLE ADVANCE NOTICE OF INSPECTIONS**

Permit holders whose installations are ready for inspection shall provide the office of the plumbing inspector a minimum of twenty-four hours notice, Saturdays, Sundays and holidays excluded.

*Add new Section 412.5:*

**412.5 FLOOR DRAINS**

Floor drains shall be installed in all public toilet rooms, etc. (see definition of public or public utilization in Chapter 2) at the discretion of the design engineer or the plumbing inspector.

*Add new Section 502.2.1:*

**502.2.1 PROHIBITED LOCATIONS**

Gas-fired water heaters shall not be installed in a sleeping room, bathroom or a closet accessed through a sleeping room or bathroom.

**Exception:** Direct vent water heater.

(Ordinance 1895 adopted 4/1/04)

*Brownfield Code of Ordinances*

*Delete Section 606.1.1* entitled “MATERIALS BELOW GROUND.” (Ordinance 2033 adopted 1/17/13)



*Brownfield Code of Ordinances*

*Add new Section 702.7 to read as follows:*

**702.7 MATERIALS**

Pipe, tubing, and fittings for drainage systems shall conform to the standards listed in Table 702.3 for all products having a minimum thickness equivalent to Schedule 40.

*Add Section 802.5 to read as follows:*

**802.5 WATER SUPPLY AND AIR-CONDITIONING UNITS**

Indirect waste connections shall be provided for drains, overflows, or relief vents from the water supply systems or air-conditioning units. Such indirect connections must discharge to an active, regularly used trap or to outside the building.

(Ordinance 1895 adopted 4/1/04)

*Delete Section 904.1 Insert twelve inches.*

*Delete Section 1002.4 entitled "TRAP SEALS."*

(Ordinance 2033 adopted 1/17/13)

*Add Chapter 15 to read as follows:*

**CHAPTER 15**

**15.01 CUSTOMER SERVICE INSPECTION**

The following customer service inspection policy is hereby adopted by the City of Brownfield:

**CUSTOMER SERVICE POLICY**

Effective immediately, a customer service inspection certification shall be completed prior to providing continuous water service to new construction, on any existing service when the City of Brownfield, referenced hereafter as the "city," has reason to believe that cross-connections or other unacceptable plumbing practices exist, or after any material improvement, correction, or addition to the private plumbing facilities.

*Brownfield Code of Ordinances*

Individuals with the following credentials shall be recognized as capable of conducting a customer service inspection certification:

- a. Plumbing inspectors and water supply protection specialists licensed by the Texas State Board of Plumbing Examiners.
- b. Certified waterworks operators and members of other water related professional groups who have completed a customer service inspector's training course, passed the corresponding examination administered by the Texas Commission on Environmental Quality (referenced hereafter as the commission) or its designated agent, and hold a customer service inspector endorsement granted by the commission or it's designated agent.
- c. Licensed plumbers, at the discretion of the "city plumbing inspector," may perform customer service inspections on single-family residential services.

As unacceptable plumbing practices are discovered, they shall be promptly eliminated to prevent possible contamination of the water supplied by the public water system. The existence of a serious threat to the integrity of the public water supply shall be considered sufficient grounds for immediate termination of water service. Service can be restored only when the source of potential contamination no longer exists, or sufficient additional safeguards have been taken.

Copies of properly completed inspection certifications shall be kept on file by the water superintendent and made available, upon request, for commission review. The certifications shall be maintained for a minimum of ten years or as long as the customer and/or premises is connected to the water system, whichever is longer. The certification form created pursuant to Title 30, Chapter 290 of the Texas Administrative Code (section 290.47(D)) shall be used. The inspection shall determine that:

- a. No direct connection between the public drinking water supply and a potential source of contamination exists. Potential sources of contamination are isolated from the public water system by an air-gap or an appropriate backflow prevention assembly in accordance with state plumbing regulations;
- b. All pressure relief valves and thermal expansion devices are in compliance with state plumbing codes;
- c. No cross-connection between the public drinking water supply and a private water source exists. Where an actual air-gap is not maintained between the public water supply and a private water supply, an approved reduced pressure-zone backflow prevention assembly is properly installed and a service

*Brownfield Code of Ordinances*

agreement exists for annual inspection and testing by a recognized backflow prevention assembly tester;

- d. No connection exists which would allow the return of water used for condensing, cooling, or industrial processes back to the public water supply;
- e. No pipe or pipe fitting that contains more than 8.0% lead exists in private plumbing facilities installed on or after July 1, 1988;
- f. No solder or flux which contains more than 0.2% lead exists in private plumbing facilities installed on or after July 1, 1988;
- g. No plumbing fixture is installed which is not in compliance with a state-approved plumbing code.

(Ordinance 1895 adopted 4/1/04; Ordinance 2033 adopted 1/17/13)

**ARTICLE 3.1500 BUILDING DEMOLITION**

**Sec. 3.1501 Requirements**

Demolition permits shall be obtained by a registered, insured contractor, or other person authorized to perform the work. The demolition contractor or person performing such work shall take the following actions at the demolition site:

- (1) Provide protection of pedestrians during demolition as required by Chapter 33 of the 2006 International Building Code.
- (2) Coordinate with the appropriate utility companies to disconnect and make safe all sources of electricity, water, fuel gas and sanitary sewer. Sanitary sewer outlets shall be capped or otherwise secured from rainwater infiltration.
- (3) Provide proper and adequate safeguards to the public, employees and adjoining property during demolition and lot clearing activities, including obtaining street barricade permits where necessary for protection of vehicular traffic.
- (4) Fill all open excavations with clean fill dirt (no rubble or trash to be used).
- (5) Reestablish lot grades to convey stormwater runoff to the street, alley, or other approved conveyance without ponding and without directing stormwater runoff onto

other private property.

- (6) Clear the lot of all trash, rubbish, building debris, dead shrubbery, tree limbs, etc.
- (7) In coordination with the appropriate department or franchise utility, repair all damage to public improvements incurred during the demolition activities, including but not limited to, street surfaces, curb and gutter, sidewalks, driveway approaches, utility lines, sign posts, drainage structures, etc.

**Sec. 3.1502 Penalty**

Violations of the provisions of this article shall be punished in accordance with Section 1.109 of this code.

(Ordinance 1957 adopted 5/3/07)

**ARTICLE 3.1600 NETWORK NODES IN PUBLIC RIGHTS-OF-WAY**

**Sec. 3.1601 Purpose**

The purpose of this article is to:

- (1) Assist the city in the competitively neutral and nondiscriminatory management of the physical use, occupancy and maintenance of its public rights-of-way by wireless network providers;
- (2) Secure fair and reasonable compensation for the physical use and occupancy of the public rights-of-way by wireless network providers in a nondiscriminatory and competitively neutral manner; and
- (3) Assist the city in protecting the public health, safety, and welfare.

**Sec. 3.1602 Construction**

This article shall be construed in accordance with chapter 284 of the Texas Local Government Code (“the code”) to the extent it is not in conflict with the Constitution and laws of the United States or of the state.

**Sec. 3.1603 Definitions**

*Brownfield Code of Ordinances*

For the purposes of this article, the following terms, as well as their singulars, plurals and possessives, shall have the following definitions and meanings, unless the context of the sentence in which they are used indicates otherwise:

Abandon (and its Derivatives). The facilities installed in the right-of-way (including by way of example but not limited to: poles, wires, conduit, manholes, handholes, cuts, network nodes and node support poles, or portion thereof) that have been left by provider in an unused or nonfunctioning condition for more than 120 consecutive calendar days unless, after notice to provider, provider has established to the reasonable satisfaction of the city that the applicable facilities, or portion thereof, is still in active use.

Access Line. (1) The transmission media within the rights-of-way extended to the end-user customer's premises network interface within the city that allows delivery of telecommunications service within the city; and (2) Each termination point of a nonswitched telephone circuit consisting of transmission media connecting specific locations identified by, and provided to, the end user for the delivery of nonswitched telecommunications service within the city.

Interoffice-transport and other transmission media that do not terminate at an end-user customer's network interface device are not access lines that would be separately identified and counted for the purposes of assessing the monthly line fee.

Antenna. Communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of wireless services.

Applicable Codes.

- (1) The city building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization; and
- (2) Local amendments to those codes to the extent not inconsistent with chapter 284.

Chapter 284. Texas Local Government Code, chapter 284.

City Council. The municipal governing body of the City of Brownfield, Texas.

City Manager. The city manager of the City of Brownfield or his designee.

City. The City of Brownfield, Texas or its lawful successor.

Code. The Texas Local Government Code.

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*Brownfield Code of Ordinances*

Collocate and Collocation. The installation, mounting, maintenance, modification, operation, or replacement of network nodes in a public right-of-way on or adjacent to a pole.

Concealment. Any wireless facility that is covered, blended, painted, disguised, camouflaged, or otherwise concealed such that the wireless facility blends into the surrounding environment and is visually unobtrusive. Concealment includes but is not limited to covering with a facade, designs that blend with the surrounding character of an area, paint that matches surrounding poles, disguising with landscaping, or locating underground.

Consumer Price Index. The annual revised consumer price index for all urban consumers for the state, as published by the Federal Bureau of Labor Statistics.

Decorative Pole. A streetlight pole specially designed and placed for aesthetic purposes and on which no appurtenances or attachments, other than specially designed informational or directional signage or temporary holiday or special event attachments, have been placed or are permitted to be placed according to nondiscriminatory city codes and ordinances.

Design District. An area that is zoned, or otherwise designated by municipal code, and for which the city maintains and enforces unique design and aesthetic standards on a uniform and nondiscriminatory basis.

Design Manual. The design requirements for specific types of facilities, including any adopted design manuals, adopted construction codes and any other city requirements including the “Design Manual of the City of Brownfield, Texas for the Installation of Network Nodes and Node Support Poles pursuant to Tex. Loc. Gov. Code, chapter 284.”

Direction of the City. All ordinances, laws, rules, resolutions, and regulations of the city that are now in force or may hereafter be passed and adopted.

Easement. Shall include any public easement or other compatible use created by dedication, or by other means, to the city for public utility purposes or any other purpose whatsoever. “Easement” shall include a private easement used for the provision of utilities.

Federal Communications Commission or FCC. The federal administrative agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.

Highway Right-of-Way. Right-of-way adjacent to a state or federal highway.

Law. Common law or a federal, state, or local law, statute, code, rule, regulation, order, or

*Brownfield Code of Ordinances*

ordinance.

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

Local. Within the geographical boundaries of the city.

Location. The city approved and lawfully permitted location for the network node.

Macro Tower. A guyed or self-supported pole or monopole greater than the lesser of:

- (1) 55 feet; or
- (2) 10 feet higher than the tallest existing utility pole located within 300 linear feet of the new pole in the same public right-of-way and that supports or is capable of supporting antennas.

Mayor. The mayor of the City of Brownfield, Texas, or designee.

Micro Network Node. A network node that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and that has an exterior antenna, if any, not longer than 11 inches.

Municipally Owned Utility Pole. A utility pole owned or operated by a municipally owned utility, as defined by section 11.003, Utilities Code, and located in a public right-of-way.

Municipal Park. An area that is zoned or otherwise designated as a public park for the purpose of recreational activity by any governmental entity including the city.

Network Node. Equipment at a fixed location that enables wireless communications between user equipment and a communications network. The term:

- (1) Includes:
  - (A) Equipment associated with wireless communications;
  - (B) A radio transceiver, an antenna, a battery-only backup power supply, and comparable equipment, regardless of technological configuration; and
  - (C) Coaxial or fiber-optic cable that is immediately adjacent to and directly associated with a particular collocation; and

*Brownfield Code of Ordinances*

- (2) Does not include:
  - (A) An electric generator;
  - (B) A pole; or
  - (C) A macro tower.

*Network Provider.*

- (1) A wireless service provider; or



*Brownfield Code of Ordinances*

- (2) A person that does not provide wireless services and that is not an electric utility but builds or installs on behalf of a wireless service provider:
  - (A) Network nodes; or
  - (B) Node support poles or any other structure that supports or is capable of supporting a network node.

Node Support Pole. A pole installed by a network provider for the primary purpose of supporting a network node.

Permit. A written authorization for the use of the public right-of-way or collocation on a service pole required from the city before a network provider may perform an action or initiate, continue, or complete a project over which the municipality has police power authority.

Pole. A service pole, city-owned utility pole, node support pole, or utility pole.

Private Easement. An easement or other real property right that is only for the benefit of the grantor and grantee and their successors and assigns.

Provider. The same meaning as “network provider.”

Public Right-of-Way. The area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the city has an interest. The term does not include:

- (1) A private easement; or
- (2) The airwaves above a public right-of-way with regard to wireless telecommunications.

This includes but is not limited to all present and future public streets, avenues, highways, alleys, sidewalks, boulevards, drives, tunnels, easements, bridges, and other such similar passageways, thoroughfares, and public ways within the city.

Service Pole. A pole, other than a city-owned utility pole, owned or operated by the city and located in a public right-of-way, including:

- (1) A pole that supports traffic-control functions;
- (2) A structure for signage;

- (3) A pole that supports lighting, other than a decorative pole; and
- (4) A pole or similar structure owned or operated by a municipality and supporting only network nodes.

Street. Only the paved portion of the right-of-way used for vehicular travel, being the area between the inside of the curb to the inside of the opposite curb, or the area between the two parallel edges of the paved roadway for vehicular travel where there is no curb. A “street” is generally part of, but smaller in width than the width of the entire right-of-way, while a right-of-way may include sidewalks and utility easements. A “street” does not include the curb or the sidewalk, if either are present at the time of a permit application or if added later.

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

Telecommunications Service Provider. Any person that supplies telecommunications service to others within the corporate limits of the city in exchange for money or other value.

Telecommunications Utility. “Telecommunications utility” as used in the Public Utility Regulatory Act, V.T.C.A., Utilities Code sec. 51.002(11).

Traffic Signal. Any device, whether manually, electrically, or mechanically operated by which traffic is alternately directed to stop and to proceed.

Transmission Media. Any and all of the cables, fibers, wires or other physical devices owned, maintained or placed by a user to transmit and/or receive communication signals, whether analog, digital or of other characteristics, and whether for voice, data or other purposes.

Transport Facility. Each transmission path physically within a public right-of-way, extending with a physical line from a network node directly to the network, for the purpose of providing backhaul for network nodes.

Use and Occupancy. Acquisition, installation, construction, reconstruction, maintenance, repair, control, or operation of any facilities within the rights-of-way for any purpose whatsoever.

User. A person or organization which conducts a business over facilities occupying the whole or a part of a public street or right-of-way, depending on the context.

Utility Pole. A pole that provides:

- (1) Electric distribution with a voltage rating of not more than 34.5 kilovolts; or
- (2) Services of a telecommunications provider, as defined by chapter 284, section 51.002, Utilities Code.

Wireless Facilities. “Micro network nodes,” “network nodes,” and “node support poles” as defined in Texas Local Government Code, chapter 284.

Wireless Service. Any service, using licensed or unlicensed wireless spectrum, including the use of wi-fi, whether at a fixed location or mobile, provided to the public using a network node.

Wireless Service Provider. A person that provides wireless service to the public.

### **Sec. 3.1604 Use and Occupancy of Public Rights-of-Way**

(a) Generally. No person shall commence or continue with the construction or installation of any structure within the rights-of-way of the city except as provided by this article, or as provided by other city permits or written agreements with the city. A wireless network provider has the nonexclusive right to use and occupy the public rights-of-way in the city for the purpose of constructing, maintaining, and operating its facilities used in the provision of wireless facilities in conformity with this article of the city code:

(b) Registration Required. All users of the right-of-way must register annually with the city. Registration and permits will be issued in the name of the person who will own the facilities. Registration shall include:

- (1) The name of the user of the right-of-way;
- (2) The name, address, and telephone number of people who will be contact person(s) for the user;
- (3) The name(s) and telephone number of an emergency contact who shall be available twenty-four (24) hours a day;
- (4) The location, including exact coordinates, of all structures located in the rights-of-way; and
- (5) A description of each structure located in the rights-of-way.

**Sec. 3.1605 Compliance with Design Manual and Applicable Codes**

All wireless network providers shall comply with the terms of this right-of-way management ordinance, city applicable codes, and the terms and conditions of the city's design manual.

**Sec. 3.1606 General Construction and Maintenance Requirements**

(a) A network provider shall construct and maintain network nodes and network support poles described in the code in a manner that does not:

- (1) Obstruct, impede, or hinder the usual travel or public safety on a public right-of-way;
- (2) Obstruct the legal use of a public right-of-way by other utility providers;
- (3) Violate nondiscriminatory applicable codes;
- (4) Violate or conflict with the city's publicly disclosed public right-of-way design specifications; or
- (5) Violate the federal Americans with Disabilities Act of 1990 (ADA).

(b) Design Manual; Separate Agreements. Facilities to which this article applies must conform to the specifications required by the design manual. If the city desires to attach or place electric light or power wires, communications facilities or other similar systems or facilities in or on the permit holder's facilities, then a further separate, noncontingent agreement with the permit holder shall be required. Nothing contained in this article shall obligate the permit holder to exercise or restrict the permit holder from exercising its right to enter voluntarily into pole attachment, pole usage, joint ownership or other wire space or facilities agreements with any person authorized to operate as a public utility or a wireless utility or authorized to offer cable service within the city.

(c) Requests for Temporary Moves. Upon request, the permit holder shall remove or raise or lower its aerial wires, fiber or cables temporarily to permit the moving of houses or other bulky structures. The expense of such temporary rearrangements shall be paid by the party or parties requesting them, and the permit holder may require payment in advance. The permit holder shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary rearrangements.

(d) Tree Trimming. The permit holder, its contractors and agents have the right, permission and license to trim trees upon and overhanging the rights-of-way to prevent trees from coming in contact with the permit holder's facilities and transmission media. When directed by the city, tree trimming shall be done under the supervision and direction of the city or under the supervision of the city's delegated representative.

**Sec. 3.1607 Administration**

*Brownfield Code of Ordinances*

- (a) Reasonable Inquiries. The city may, at any time, make reasonable inquiries pertaining to the terms, conditions, rights and obligations of this article, and the permit holder shall respond to such inquiries on a timely basis.
- (b) FCC/PUC Documents. Copies of petitions, applications, and reports submitted by the permit holder to the Federal Communications Commission or the Public Utility Commission of Texas shall be provided to the city upon specific request.
- (c) Consolidated Permit Application. A network provider that wants to install or collocate multiple network nodes inside the limits of the city is entitled to file a consolidated permit application with the city for not more than 30 network nodes.
- (d) Documents Required for Application. The provider shall provide the following information in its permit applications:
- (1) The name and address of the person to whom notices are to be sent, a 24-hour per day contact number for the applicant in case of emergency;
  - (2) Location map that includes all other structures within 300 feet of the proposed location;
  - (3) Applicable construction and engineering drawings and information to confirm that the applicant will comply with the city's design manual and applicable codes;
  - (4) A certificate that the network node(s) complies with applicable regulations of the Federal Communications Commission;
  - (5) Certification that the proposed network node(s) will be placed into active commercial service by or for the network provider not later than the 60th day after the date of construction and final testing of each network node is completed;
  - (6) A certificate of insurance that provides that the provider and its contractor has at least \$1,000,000.00 in general liability coverage;
  - (7) An industry standard pole load analysis certified by a licensed engineer;
  - (8) Geotechnical survey for any proposed new pole;
  - (9) Specific location information, including geographic positioning system coordinates;
  - (10) A complete application and supporting documents for conditional use permit or other

*Brownfield Code of Ordinances*

land use approval where required by the design manual;

- (11) Proof of payment of the construction permit fee and prorated rights-of-way fee for the remaining portion of the current calendar year; and
- (12) Any additional information reasonably related to the provider's use of the public rights-of-way to ensure compliance with the design manual and this article.

(e) Determination of Application Completeness. The city shall determine whether the permit application is complete and notify the applicant of that determination:

- (1) For network nodes and node support poles: No later than 30 days after the date the city receives the permit application.
- (2) For a transport facility: No later than 10 days after the date the city receives the permit application.

(f) Approval or Denial of Application. The city shall approve or deny a completed application after the date it is submitted to the city:

- (1) For network nodes: No later than 60 days after the date the city manager receives the complete application.
- (2) For network support poles: No later than 150 days after the date the city receives the complete application.
- (3) For transport facilities: No later than 21 days after the city receives the complete application.

(g) Basis for Denial of Application. If an application is denied by the city, it shall document the basis for the denial, including the specific applicable city code provisions or other city rules, regulations, or other law on which the denial is based. The documentation for the denial must be sent by electronic mail to the applicant on or before the date that the city manager denies the application.

(h) Resubmission of Denied Application. The permit holder may cure the deficiencies identified in the denial application:

- (1) The permit holder has 30 days from the date the city denies the completed application to cure the deficiencies identified in the denial documentation without paying an additional application fee, other than any fee for actual costs incurred by the city.

*Brownfield Code of Ordinances*

- (2) The city shall approve or deny the revised completed application after a denial not later than the 90th day after the city manager receives the revised completed application. The city's review shall be limited to the deficiencies cited in the denial documentation.



*Brownfield Code of Ordinances*

(i) Exception. As provided in section 284.157 of the code, a network provider is not required to apply, obtain a permit, or pay a rate to the city for:

- (1) Routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way;
- (2) Replacing or upgrading a network node or network pole with a node or pole that is substantially similar in size or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or
- (3) The installation, placement, maintenance, operation, or replacement of micro network nodes that are strung on cables between existing poles or node support poles in compliance with the National Electrical Safety Code;
- (4) Notwithstanding section 3.1604 above, the network provider or its contractors shall notify the city at least 24 hours in advance of work described in this section 3.1604.

**Sec. 3.1608 Installation in Design Districts**

A network provider must obtain advance written consent from the city manager before collocating new network nodes or installing new node support poles in an area of the city that has been zoned or otherwise designated as a design district if the district has decorative poles. The network provider shall be required to comply with the general aesthetic requirements described in the city's design manual. The city has the authority to designate new historic districts and design districts at a future date.

**Sec. 3.1609 Installation in Municipal Parks and Residential Areas**

A network provider may not install a new node support pole in a public right-of-way without the city council's discretionary, nondiscriminatory and written consent if the public right-of way:

- (1) Is in a municipal park; or
- (2) Is adjacent to a street or thoroughfare that is:
  - (A) Not more than 50 feet wide; and
  - (B) Adjacent to single-family residential lots or other multifamily residences or undeveloped land that is designated for residential use by zoning or deed restrictions.

- (3) In addition to the above, a network provider installing a network node or node support pole in a public right-of-way shall comply with private deed restrictions and other private restrictions in the area that apply to those facilities.
- (4) The network provider shall be further required to comply with guidelines set out in the city's design manual.

### **Sec. 3.1610 Time of Installation**

A network provider shall begin installation for which a permit is granted not later than six months after final approval of the application and shall diligently pursue installation to completion. The city mayor may in his/her sole discretion grant reasonable extensions of time as requested by the network provider.

### **Sec. 3.1611 Relocation and Removal of Facilities**

- (a) Street Widening or Straightening. In accordance with V.T.C.A., Utilities Code sec. 54.203(c), upon thirty (30) days' notice by the city, permit holder shall begin relocation of its facilities within the rights-of-way at its own expense to permit the widening or straightening of streets. The notice by the city shall include a specification of the new location for the permit holder's facilities along the rights-of-way.
- (b) City's Right to Relocate. The city retains the right to move any facilities within the rights-of-way to cure or otherwise address a public health or safety emergency. The city shall cooperate to the extent possible with the permit holder in such instances to assure continuity of service and to afford to the permit holder the opportunity to make such relocation itself.
- (c) Expense and Timelines for Relocation. Except as otherwise provided in existing state and federal law, upon notice from the city, a network provider shall relocate or adjust network nodes in a public right-of-way in a timely manner and without cost to the municipality managing the public right-of-way.

### **Sec. 3.1612 Applicable Fees and Rental Rates to the City**

- (a) Construction Permit and Rights-of-Way Fees.
  - (1) Construction permit fee. The applicant shall pay to the city a construction permit fee that is calculated as of the date of application for permit by applying the appropriate permit fee to each of the facilities included in the application, in accordance with the city's design manual, not to exceed the values provided below.

*Brownfield Code of Ordinances*

- (2) Rights-of-Way Fee. The permit holder shall pay to the city a rights-of-way fee that is calculated as of month-end for access lines and as of year-end for all other facilities by applying the appropriate fee to each facility type owned, placed, or maintained by the permit holder. The rights-of-way fee for access lines shall be as proscribed by the Texas Public Utilities Commission. Rights-of-way fees for all facilities other than access lines shall be prorated for the first year in which a construction permit fee is paid, and shall be paid at the time of the permit application.

(b) Network Nodes.

- (1) Construction Permit Fee. The construction permit fee shall be \$500.00 for the first five nodes, \$250.00 for each additions node, not to exceed thirty nodes.
- (2) Annual Public Right-of-Way Rate Fee. The annual public right-of-way rate shall be \$250.00 per network node site installed in the city public rights-of-way.
- (3) Public Right-of-Way Rate Adjustment. As provided in section 284.054 of the Code, the city may adjust the amount of the annual public right-of-way rate not more than annually by an amount equal to one-half the annual change, if any, in the Consumer Price Index (CPI). The city shall provide written notice to each network provider of the new rate; and the rate shall apply to the first payment due to the city on or after the 60th day following the written notice.
- (4) Collocation Fee. Collocated network nodes on city service poles shall also pay an annual collocation fee at a rate not greater than \$20.00 per year per service pole.

(c) Node Support Poles.

- (1) Construction Permit Fee. The construction permit fee for each node support pole shall be \$1,000.00.
- (2) Annual Public Right-of-Way Rate Fee. The annual public right-of-way rate shall be \$250.00 per pole installed in the city public rights-of-way.
- (3) Public Right-of-Way Rate Fee. As provided in section 284.054 of the code, this amount will be adjusted by an amount equal to one-half the annual change, if any, in the consumer price index. The city shall provide written notice to each network provider of the new rate; and the rate shall apply to the first payment due to the city on or after the 60th day following the written notice.

*Brownfield Code of Ordinances*

(d) Transport Facilities.

- (1) Construction Permit Fee. The construction permit fee for transport facilities shall be \$500.00 for the first five nodes and \$250.00 for each additional node.
- (2) Public Right-of-Way Rate Fee. The public right-of-way rate fee shall be \$28.00 per month per node.
- (3) Public Right-of-Way Fee. As provided in section 284.054 of the code, this amount will be adjusted by an amount equal to one-half the annual change, if any, in the consumer price index. The city shall provide written notice to each network provider of the new rate; and the rate shall apply to the first payment due to the city on or after the 60th day following the written notice.

(e) Micro Network Nodes. No application fee is required for a micro network node if the installation is attached on lines between poles or node support poles.

(f) Collocation of Network Nodes on Service Poles. Subject to the city's pole service agreement, the collocation of network nodes on city service poles shall be at a rate of \$20.00 per year per service pole.

(g) City-Owned Municipal Utility Poles. A network provider shall pay an annual pole attachment rate for the collocation of a network node supported by or installed on a city-owned utility pole based upon the pole attachment rate consistent with section 54.024 of the Texas Utilities Code, applied on a per-foot basis.

(h) The city shall not seek or accept in-kind services in lieu of or as additional payment or consideration from any user of the public rights-of-way for use of the public rights-of-way.

**Sec. 3.1613 Indemnity**

The permit holder shall indemnify and hold the city harmless from all costs, expenses, and damages to persons or property arising directly or indirectly from the construction, maintenance, repair, or operation of the permit holder's facilities located within the rights-of-way found to be caused solely by the negligence of the permit holder. Expenses shall include any reasonable and necessary attorney's fees and court costs. The city shall give the permit holder prompt written notice of any claim for which the city seeks indemnification. The permit holder shall have the right to investigate, defend and compromise any such claim. This provision is not intended to create a cause of action or liability for the benefit of third parties, but rather this provision is solely for the benefit of the city.

**Sec. 3.1614 Future Contingency**

In the event this article or any tariff or other provision that authorizes permit holders to recover the fee provided for in this article, becomes unlawful or is declared or determined by a judicial or administrative authority exercising its jurisdiction to be excessive, unenforceable, void, or illegal, in whole or in part, then the city and all permit holders shall negotiate a new compensation arrangement that is in compliance with the authority's decision.

**Sec. 3.1615 Effect on Other Utilities and Telecommunication Providers**

Nothing in this article shall govern attachment of network nodes on poles and other structures owned or operated by investor-owned electric utilities, electric cooperatives, telephone cooperatives, or telecommunication providers.

**Sec. 3.1616 Conflicts with Other Requirements**

Where this article conflicts with any other provision of the city code, this article shall control.

(Ordinance 2084 adopted 8/31/17)

## Endnotes

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

\* **State law references**–International Residential Code adopted as a municipal residential building code, V.T.C.A., Local Government Code, sec. 214.212; building and residential codes, V.T.C.A., Local Government Code, sec. 214.211 et seq.; adoption of building energy efficiency standards, V.T.C.A., Health and Safety Code, sec. 388.003.

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

\* **State law reference**–Authority of municipality to regulate unsafe and substandard structures, V.T.C.A., Local Government Code, sec. 214.001 et seq.

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

\* **State law references**–National Electrical Code adopted as municipal residential and commercial electrical code, V.T.C.A., Local Government Code, sec. 214.214; Texas Electrical Safety and Licensing Act, V.T.C.A., Occupations Code, ch. 1305.

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

\* **Editor's note**–Former Section 3.666 pertaining to the height and extension of electrical signs has been repealed by Ordinance 1941 adopted July 20, 2006.

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

\* **State law references**–Flood Control and Insurance Act, V.T.C.A., Water Code, sec. 16.311 et seq.; governing body shall adopt ordinances or orders necessary to participate in National Flood Insurance Program, V.T.C.A., Water Code, sec. 16.3145; responsibility to establish flood hazard regulations, V.T.C.A., Water Code, sec. 16.315; financing capital improvements required by new development, V.T.C.A., Local Government Code, ch. 395; emergency management, V.T.C.A., Government Code, ch. 418.

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

\***State law references**–Street improvements and assessments in cities having more than 1,000 inhabitants, V.T.C.A., Transportation Code, ch. 313; authority of municipality over and under public highways, streets and alleys, V.T.C.A., Transportation Code, sec. 311.001; closing of street or alley, V.T.C.A., Transportation Code, sec. 311.007; assessment for street improvements, V.T.C.A., Transportation Code, sec. 311.091; assessment of costs of improvements on abutting properties, V.T.C.A., Transportation Code, sec. 313.041 et seq.; municipal home-rule powers to regulate public utilities and franchises using streets, etc., V.A.C.S., art. 1175.

### **7 (Popup - Popup)**

\* **State Law reference**–Subsurface excavations, V.T.C.A., Water Code, Sec. 31.001 et. seq.; use of sidewalks and streets for private purposes, V.A.C.S., Art. 1085b; municipal regulation of obstructions on streets, etc., V.A.C.S., Art. 1175(5).

### **8 (Popup - Popup)**

\* **State law references**–Authority to appoint plumbing inspector, V.T.C.A., Local Government Code, sec. 214.011; authority to regulate sewers and plumbing, V.T.C.A., Local Government Code, secs. 214.012 and 214.013; authority to regulate plumbing, V.T.C.A., Occupations Code, sec. 1301.551; Plumbing License Law, V.T.C.A., Occupations Code, ch. 1301; adoption of plumbing codes and amendment of codes by municipality, V.T.C.A., Occupations Code, sec. 1301.255.