

Code of Ordinances

CITY OF

VALLEY MILLS, TEXAS

GENERAL ORDINANCES OF THE CITY

Adopted, May 22, 2012

Effective, May 22, 2012

Published by Order of the City Council

**Updated 05/25/2021 with Zoning Ordinance, CUP Permit, Peddlers Permits, Building Permit Fees, and clarifying Speaking Times at City Council Meetings.**

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Valley Mills City Council

Valley Mills, Texas

Ordinance No. 430

**An Ordinance Adopting and Enacting a New and Amended Code of Ordinances of the City of Valley Mills, Texas' Establishing the Same; Providing for the Repeal of Certain Ordinances Not Included Therein Except as Herein Expressly Provided; and Providing for the Effective Date of Such Code and a Penalty for the Violation Thereof; Providing for the Manner of Amending Such Code; and Providing When this Ordinance Shall Become Effective.**

**Be it Ordained by the City Council of the City of Valley Mills:**

Section 1. That the attached Code of Ordinances consisting of Chapters 1 to 21, each inclusive, is hereby adopted and enacted as the "Code of Ordinances, City of Valley Mills, Texas" and shall be treated and considered as a new and original comprehensive ordinance which shall supersede all other codes, general and permanent ordinances passed by the City Council on or before the effective date hereof, to the extent provided in Section 2 hereof.

Section 2. That all provisions of such Code shall be in full force and effect from and after the effective date hereof, and all ordinances of a general and permanent nature of the City of Valley Mills, enacted on final passage on or before the effective date hereof, and not included in such Code or recognized and continued in force by reference are hereby repealed from and after the the effective date hereof, except as hereinafter provided. No resolution of the City, not specifically mentioned is hereby repealed.

Section 3. That the repeal provided for in Section 2 hereof shall not affect any of the following:

- (a) Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of such Code;
- (b) Any ordinance promising or guaranteeing the payment of money for the City, or authorizing the issuance of any bonds of the City or any evidence of the City's indebtedness;
- (c) Any contract or obligation assumed by the City;
- (d) Any right or franchise granted by the City;
- (e) Any ordinance dedicating, naming, establishing, locating, opening, paving, widening, vacating, etc., any street or public way in the City;
- (f) Any ordinance relating to municipal street maintenance agreements with the State of Texas;
- (g) Any ordinance establishing or prescribing grades for streets in the City;
- (h) Any appropriation ordinance or ordinance providing for the levy of taxes or for an annual budget;
- (i) Any ordinance relating to local improvements and assessments therefore
- (j) Any ordinance annexing territory of the City or discontinuing territory as part of the City;

- (k) Any ordinance dedicating or accepting any plat or subdivision in the City;
- (l) Ordinances prescribing traffic regulations for specific streets, such as ordinances establishing speed limits or designating one-way streets, no-parking areas, truck routes, stop intersections, intersections where traffic is to be controlled by signals, etc.;
- (m) Any floodplain management ordinance;
- (n) Any zoning ordinance or ordinance prescribing subdivision regulations;
- (o) Any ordinance prescribing maximum telephone, gas, electricity or other utility rates or charges;
- (p) Any ordinance prescribing personnel policies and procedures;
- (q) Any ordinance enacted after the effective date hereof.

Provided, this ordinance may be amended from time to time to incorporate any of the matters listed above into the Code of Ordinances, at which time said exception or exceptions will be deemed to be deleted, whether expressly done so or not.

The repeal provided for in Section 2 hereof shall not be construed to revive any ordinance or part thereof that has been repealed by a subsequent ordinance, which is repealed by this ordinance.

Section 4. That whenever in such Code an act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever in such Code the doing of any act is required or the failure to do any act is declared to be unlawful and no specific penalty is provided therefore, the violation of any such provision of such Code shall be punished by a fine not to exceed Two Thousand Dollars (\$2,000) in all cases arising under municipal ordinances or resolutions, rules, or orders of a joint board that govern fire safety, zoning, or public health and sanitation, including dumping of refuse; or a fine not to exceed Five Hundred Dollars (\$500) in all other cases arising under a municipal ordinance or a resolution, rule, or order of a joint board, as provided in Section 1-7 of such Code.

Section 5. That any and all additions and amendments to such Code, when passed in such form as to indicate the intention of the City Council to make the same a part thereof, shall be deemed to be incorporated in such Code so that reference to the "Code of Ordinances, City of Valley Mills, Texas" shall be understood and intended to include such additions and amendments.

Section 6. In case of the amendment of any section of such Code for which a penalty is not provided, the general penalty as provided in Section 4 of this ordinance and Section 1-7 of such Code shall apply to the section as amended; or, in case such amendment contains provision for which a penalty, other than the aforementioned general penalty, is provided in another section in the same chapter, the penalty so provided in such other section shall be held to relate to the section so amended, unless such penalty is specifically repealed therein.

Section 7. That a copy of such Code shall be kept on file in the office of the City Secretary, preserved in loose-leaf form, or in such form as the City Secretary may consider most expedient. It shall be the express duty of the City Secretary, or someone authorized by him/her, to insert in their designated places all amendments or ordinances which indicate the intention of the City Council to make the same a part of such Code when the same have been printed or reprinted in page form, and to extract from such Code all provisions, which may be from time repealed by

the City Council. This copy of such Code shall be available for all persons desiring to examine the same.

Section 8. That is shall be unlawful for any person to change or amend, by additions or deletions any part or portion of such Code, or to insert or delete pages or portions thereof, or to alter or tamper with such Code in any manner whatsoever which will cause the law of the City of Valley Mills to be misrepresented thereby. Any person violating this section shall be punished as provided in Section 4 of this ordinance.

Section 9. That all ordinances or parts of ordinances in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 10. That this ordinance shall become effective on May 22, 2012.

**PASSED AND APPROVED** by the City Council of the City of Valley Mills on the 22<sup>nd</sup> day of May, 2012.

*Rodney Nichols*  
Mayor

ATTEST:

*Liz Caraway*

(SEAL)

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PART II

**CODE OF ORDINANCES**

Chapter 1

**GENERAL PROVISIONS**

**Sec. 1-1. Short title and citation.**

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

**Sec. 1-2. Headings or titles of Sections.**

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

**Sec. 1-3. Rules of construction.**

In the construction of this Code, and of all ordinances and resolutions passed by the City Council, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the City Council:

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

*City.* The words "the city" or "this city" shall mean the City of Valley Mills in the County of Bosque and State of Texas.

*City Administrator, City Secretary, chief of police or any other city officers.* The words, "City Administrator," "City Secretary," "chief of police" or other city officers or departments shall be construed to mean the City Administrator, City Secretary, chief of police or such other municipal officers or departments, respectively, of the City of Valley Mills, Texas.

*Computation of time.* Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which the notice is given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

*Council.* Whenever the words "council" or "this council" or "the council" are used, they shall mean the City Council of the City of Valley Mills, Texas.

*County.* The term "county" or "this county" shall mean the County of Bosque, Texas.

*Gender.* All uses of the words "he," "him," "his" or other similar references shall apply equally to females and males, and no limitation to one gender shall be implied.

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

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

*Oath.* The word “oath” shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the words “swear” and “sworn” shall be equivalent to the words “affirm” and “affirmed.”

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

*Owner.* The word “owner,” applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant or tenant by the entirety of the whole or of any part of such building or land.

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

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

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

*State.* The words “the state” or “this state” shall be construed to mean the State of Texas.

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

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

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

#### **Sec. 1-4. Amendments or additions to Code.**

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

Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of the Code in the following language or language of similar import: “Section ..... of the Code of Ordinances, City of Valley Mills, Texas, is hereby amended as follows .....”

In the event a new section not heretofore existing in the Code is to be added, the following language may be used: “The Code of Ordinances, City of Valley Mills, Texas is hereby amended by adding thereto the following new section: ..... .” The new section shall then be set out in full as desired.

#### **Sec. 1-5. Severability.**

If any provision, definition, section, subsection, sentence, clause or phrase of this Code of Ordinances, or the application of same to any person or set of circumstances, is for any reason held to be unconstitutional, void, or invalid (or for any reason unenforceable), the validity of the remaining portions of this Code or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Code, that no portion thereof or provision, definition or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, definition, provision, or regulation, and to this end, all provisions of this Code are declared to be severable.

**Sec. 1-6. Jury fees.**

A person summoned for jury service, and who does attend and is sworn in by the municipal court, though not accepted and not serving in trial of the case, shall be paid the fee established by City Council.

**Sec. 1-7. General penalty.**

Any person, firm or corporation violating any portion or provision of this Code of Ordinances shall be deemed guilty of a misdemeanor and, upon conviction therefor, shall be punished by the assessment of a fine not exceeding the maximum amounts allowed by State law.

**Sec. 1-8. Imprisonment in default of fine payment.**

Any person in default of payment of any fine imposed shall be imprisoned for a period of days determined by the amount of such unpaid fine divided by the daily rate established by City Council.

## Chapter 2

### ADMINISTRATION

#### **Sec. 2-1. Council meetings; regular days, time and place.**

The City Council shall hold regular monthly meetings on the day and at the time determined by the City Council

#### **Sec. 2-2. Public Speakers.**

- (1) A person who intends to speak at the city council's business meeting or a public hearing on a resolution, ordinance, or any agenda item will be encouraged to speak but limited to three (3) minutes. The agenda item will be limited to twenty-one total.
- (2) A person's time will start once the Mayor recognizes the individual.
- (3) If an item has been pulled from the agenda, a person desiring to address the pulled item, may sign up for the end of the council meeting under the Non agenda items- Citizens Comments.
- (4) When speaking for 10 or more individuals present in the City Council Chamber, the presentation is limited to 10 minutes by the representative of the group, and other members of the group may not speak. Individuals may be asked to stand to confirm their attendance.
- (5) The Mayor or Mayor pro-tem may impose more restrictive time limits on items that are not public hearings, but for which a large number of persons requesting to speak.

#### **Sec. 2-3. Ordinance establishing fees, charges, costs and other payments.**

The City Council shall, from time to time, establish by ordinance such fees, charges, costs or other payments or expenditures provided under any section of this code. If any such amount shall be found or deemed undetermined, then upon request by the person charged with such payment, the amount shall be the lowest such amount charged by the three largest cities in Bosque County; provided, that if no other city in Bosque County has a provision for the same or substantially the same payment, the amount shall be a reasonable amount, as determined by agreement of the parties or, if such agreement cannot be reached within a reasonable time, by arbitration under the rules of the American Arbitration Association, with the cost of such arbitration divided equally between the parties.

#### **Sec. 2-4. Appointments, procedure for making.**

Whenever any section of this Code calls for, permits, or requires the appointment or designation of any person to any office, board or other position of responsibility, any position which involves the exercise of judgment or authority on behalf of the city, or as may be required by State Law, such appointment or designation shall be made as follows:

- (1) Upon the occurrence of a vacancy in any position covered by this section, the Mayor shall make a determination whether applications for such position should be requested from interested qualified persons.
- (2) If the Mayor determines applications should be solicited, notice of the vacancy shall be given either by an announcement at a regular monthly City Council meeting, or by publication in a newspaper, identifying the appointment to be made, stating any qualifications that may be required for such appointment, and providing a time limit for the submission of applications or expressions of interest to the City Secretary.
- (3) After the time for submission of applications or expressions of interest, if such are requested, the Mayor shall determine the person to be appointed to such vacancy and shall report such choice, in writing, to the members of the City Council.
- (4) After such report has been delivered, such appointment shall be placed upon the agenda for the next meeting of the City Council, either regular or called, and may, if required or allowed by State Law, be made the subject of an Executive Session subject to applicable procedures.
- (5) City Council shall receive and consider the Mayor's determination either in open or

executive session, as appropriate, and shall, in open session, by majority vote approve or disapprove the Mayor's determination, subject to any provisions of this Code or of State Law.

- (6) In the event City Council disapproves the Mayor's determination, this procedure shall again be followed until City Council votes to approve such appointment.
- (7) Any appointment made hereunder shall become effective immediately upon a favorable vote by City Council, or at such time as may be provided by City Council, this Code or State Law, but in no event before any required oath shall be taken by such appointee.

## Chapter 3

### ANIMALS

Art. I. In General  
Art. II. Dogs,

§§ 3-1-3-17  
§§ 3-18-3-23

#### ARTICLE I. IN GENERAL

##### **Sec. 3-1. Running at large; location and size of enclosures.**

It shall be unlawful for the owner, keeper or person in charge of any cow, horse, mule, jack, jennet, hog, goat, sheep, or similar animal to allow the same to run at large within the city. Such animal shall be kept in a stable, shed, pen or other enclosure, and such stable, pen, shed or other enclosure for such animal shall be a distance of at least one hundred (100) feet from every place of residence or commercial building. There shall be a minimum space of five thousand (5,000) square feet for each cow, horse, mule, jack, jennet, hog, goat, sheep or similar animal kept within the city.

##### **Sec. 3-2. Rodeos, etc.; space and location restriction.**

It shall be unlawful to hold any type of rodeo, contest or public display of any horse, cows or similar animals in the city unless said rodeo, display or contest is conducted in an open area containing at least five (5) acres of land, which five (5) acres of land shall be located a minimum of one thousand (1,000) feet from any place of residence or commercial building.

##### **Sec. 3-3. Impounding-Required; sale; costs; redemption.**

The city police officers or person or persons designated by City Council as Animal Control Officer(s) shall take up and impound any animal mentioned in section 3-1 found running at large, and shall, within three (3) days after such animal has been impounded, post a notice, at the city hall giving therein a description of such animal so impounded and stating a day and place of sale of same. Not less than five (5) days from such notice, the chief of police shall sell such animal at public sale to the highest bidder for cash. He shall charge reasonable fees, approved by City Council, for impounding each animal, and for taking care of each animal and for selling each animal, which fees so collected shall be placed to the credit of the general fund. After deducting the expenses, he shall return the balance of such sale, if any, to the owner. If not owner shall call for the amount within fifteen (15) days from the date of sale, he shall pay the same into the city treasury. At any time within six (6) months after any sale, the owner may apply to the City Council and upon satisfactory proof of ownership he shall be entitled to receive the amount deposited on account of such sale after paying such costs as may be necessarily incurred to establish his right thereto. The owner of any animal impounded may reclaim the same at any time before sale by paying all fees and expenses of impounding and keeping such animal.

##### **Sec. 3-4. Same-Record.**

The chief of police shall keep a book in which shall be given a description of all animals impounded, the date of impounding, the date of sale, the amount realized at sale, the name of the owner and the name of the purchaser.

##### **Sec. 3-5. Fowl not to go at large.**

It shall be unlawful for any person owning or having under his control or management any chickens, turkeys, geese or other domestic fowl to allow to go at large, either upon the public streets or grounds of the city or upon any private property of another.

**Sec. 3-6. Grazing of stock.**

It shall be unlawful for any person to stake any stock for the purpose of grazing on or within reach of any public street or grounds.

**Sec. 3-7 thru 3-17. Reserved.**

**ARTICLE II. DOGS**

**Sec. 3-18. Definitions.**

As used in this article, the following terms shall have the respective meanings ascribed to them:

*At large:* Off the premises of the owner and not under the control of the owner or a member of his immediate family either by leash, cord, chain or otherwise.

*Owner:* Any person owning, keeping or harboring a dog.

*Vaccination:* An injection of a type of vaccine approved by the state health officer, administered by a duly licensed veterinarian.

**Sec. 3-19. Vaccination.**

All dogs kept, harbored or maintained in the city shall be vaccinated. At the time the dog is vaccinated, the veterinarian vaccinating the dog shall issue to the owner the veterinarian's tag showing that the dog has been vaccinated. The owner of the dog shall be required to provide each dog with a collar to which the veterinarian's tag shall be affixed, and the owner shall see that the collar and tag are constantly worn. The veterinarian's tag shall not be transferable from one dog to another dog.

**Sec. 3-20. Running at large.**

No owner or keeper of any dog shall permit such dog to run at large within the city.

**Sec. 3-21. Impounding.**

Any dog running at large in the city or any dog not provided with a collar to which is attached a metal tag as required by this article, shall be taken up by the city police or person or persons designated by City Council as Animal Control Officer(s) and impounded in a place provided for that purpose, and if the dog is not called for by the owner within three (3) days after the same has been taken up the dog shall be destroyed. However, any person owning any dog impounded under the terms of this article shall be allowed to take such dog from the place where impounded upon the following conditions:

- (1) Upon the payment of a reasonable impounding fee, as determined by City Council, for each day or fractional part of the day said dog has been impounded, said fee to be placed in the general fund of the city.
- (2) If the dog has not been vaccinated for rabies and the owner thereof does not have a certificate showing that the dog has been vaccinated within twelve (12) months of the date in which it was impounded, the dog can be redeemed by the owner only after the dog has been vaccinated by a licensed veterinarian.

**Sec. 3-22. Vicious dog.**

No dog of fierce, dangerous or vicious propensities and no female dog in heat, whether licensed or not, shall be allowed upon a street, avenue, highway, alley, sidewalk, parkway, park or other public place in the city, whether or not the dog is under the control of the owner or a member of his immediate family either by leash, cord, chain, or otherwise, and if any such dog is found in violation of this provision it shall be taken up and impounded and shall not be released except upon approval by the chief of police and by complying with all the terms and provisions of this article, and provided, however, if any dangerous, fierce, or vicious dog so found cannot be safely taken up and impounded, such dog may be slain by the city police or person or persons designated by City Council as Animal Control Officer(s).

**Sec. 3-23. Biting or bitten dog wherein rabies possible.**

If a dog has bitten any person, the owner of the dog shall notify the chief of police within twenty-four (24) hours and such dog shall be confined at such place as may be designated by the chief of police for a period of two (2) weeks at the expense of the owner. No dog held for observation shall be released from impoundment without the authorization of the chief of police.

In case any dog suffers a bite from a rabid animal or is suspected or believed to have been bitten by a rabid animal the owner of said dog shall within twenty-four (24) hours notify the chief of police. The owner or person in charge of such dog shall within three (3) days from the time he has knowledge that the dog is suffering from a bite from a rabid animal or is suspected or believed to have been bitten by a rabid animal, have the dog given the Pasteur treatment or other similar course of treatment, at the expense of the owner and the owner of such dog shall confine the dog. The confinement shall be under the direction and supervision of the chief of police. The chief of police shall direct the manner and means by which the dog shall be confined. The confinement shall be a period of six (6) months and released only by the order of the chief of police. In the event the owner or person in charge of the dog does not give the dog such treatment, he shall deliver the dog to the city police or person or persons designated by City Council as Animal Control Officer(s) and the dog shall be destroyed.

## Chapter 4

### BUILDINGS AND STRUCTURES

Art. I.	In General,	§§ 4-1-4-19
Art. II.	Electrical,	§§ 4-20-4-53
Art. III.	House Moving,	§§ 4-54-4-68
Art. IV	Plumbing and Gas Fixtures,	§§ 4-69-4-85
Art. V	Unsafe Structures,	§§ 4-86-4-101
Art. VI	Minimum Housing Code	§§ 4-102-4-111
Div. 1	Generally,	§§ 4-102-4-111
Div. 2	Building Standards Commission,	§§ 4-112-4-125
Div. 3	Minimum Standards,	§§ 4-126-4-150
Div. 4	Repair, Vacation, Demolition of Nonconforming Buildings,	§§ 4-151-4-175
Art. VII	Zoning Code Incorporated,	§§ 4-180

#### ARTICLE I. IN GENERAL

##### **Sec. 4-1. Permits required.**

Permits shall be required for any building, electrical or plumbing work done on new or existing structures within the city including without limitation the construction, alteration, removal, demolition, equipment, use and occupancy, location or maintenance of any such buildings or structures within the city or, where permitted by law, the extraterritorial jurisdiction of the city. The fees for the issuance of such permits shall be established by City Council. Also see Sec 4.7

##### **Sec. 4-2. Code adopted for reference purposes.**

- (1) There is hereby adopted by the city, for the purpose of providing a reference and resource for matters relating to the permitting, construction, alteration, removal, demolition, equipment, use and occupancy, location and maintenance of buildings and structures, that certain building code from time to time approved, recommended or otherwise supported by the Building Officials Association of Texas (BOAT) of the Texas Municipal League, or any successor; provided that if the said organization does not approve, recommend or support any such code, that the code hereby adopted shall be the same as is adopted or enforced from time to time by the largest city, in terms of population, in Bosque County, Texas.
- (2) The building inspector shall make all determinations with regard to matters referred to in this Chapter, using said code as a reference only, and shall not be bound by the strict application of the provisions thereof; provided, however, that any disputes regarding the application of principles or provisions included in such code shall be submitted to City Council for final determination. City Council may, but shall not be required to, employ any expert deemed by council to be suitable for such purpose to provide advice regarding the interpretation of the provisions of such code in the event of any such dispute, but council shall not be bound by any such advice or interpretation.

##### **Sec. 4-3. Building inspector-Office created; officer designated; acting officer.**

- (1) The office of building inspector is created, and the executive official in charge shall be known as the building inspector; the building inspector may, at any time, designate a person or persons to perform all or some of the functions of the building inspector, and any reference to the building inspector in this Code shall also apply to any such designee.

- (2) During temporary absence or disability of the building inspector, the City Council shall designate an acting building inspector.

**Sec. 4-4. Same-Qualifications; conflict of interests.**

The building inspector shall be physically capable of making the necessary examinations and inspections. He shall not have any interest whatever, directly or indirectly, in the sale or manufacture of any material process or device entering into or used in or in connection with building construction, alteration, removal or demolition. An existing official or employee of the city may serve as building inspector, subject however to any applicable law or regulation of the State of Texas.

**Sec. 4-5. Same-Duties.**

The following duties shall be performed by the building inspector:

- (1) The building inspector shall receive applications for permits required for the construction, alteration, removal, demolition, equipment, use and occupancy, location or maintenance of any buildings or structures within the city or, where permitted by law, the extraterritorial jurisdiction of the city; issue such permits and furnish the prescribed certificates, if any. He shall examine the premises for which permits have been issued and shall make necessary inspections to see that the provisions of law are complied with and that construction is prosecuted safely. He shall enforce all provisions of the ordinances of the city relating to buildings and structures. He shall, when requested by proper authority, or when the public interest so requires, make investigations in connection with matters referred to in this Chapter and render written reports on the same.
- (2) In order to enforce compliance with law, to correct illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate exit facilities in buildings and structures, he shall issue such notices and orders as may be necessary.
- (3) Inspections required under this Chapter shall be made by the building inspector or his duly appointed representative. The building inspector may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. No permit or certificate shall be issued on the basis of such reports unless the same are in writing and certified to by a responsible officer of such service.
- (4) The building inspector shall keep comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of notices or orders issued. All such records shall be open to public inspection and copying as required by the laws of the State of Texas.

**Sec. 4-6. Same-Right of entry.**

The building inspector, in the discharge of his official duties, and upon proper identification, shall have authority to enter any building, structure or premises at any reasonable hour.

**Sec. 4-7. Building Permit Fees**

*A building permit application must be obtained at City Hall for any new or existing properties including but not limited to demolition, remodel, repair, and alteration greater than 250 Square Feet of said property. This is required for both residential and commercial properties.*

**Sec. 4-8. Penalty**

Violation of this ordinance shall constitute a misdemeanor punishable by a fine of up to \$500.00. Each day a violation occurs or is allowed to continue shall constitute a separate offense punishable hereunder. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

**-4-19. Reserved**

## **ARTICLE II. ELECTRICAL**

### **Sec. 4-20. Code adopted for reference purposes.**

- (1) There is hereby adopted by the city, for the purpose of providing a reference and resource for matters relating in any way to electric service, that certain electrical code from time to time approved, recommended or otherwise supported by the Building Officials Association of Texas (BOAT) of the Texas Municipal League, or any successor; provided that if the said organization does not approve, recommend or support any such code, that the code hereby adopted shall be the same as is adopted or enforced from time to time by the largest city, in terms of population, in Bosque County, Texas.
- (2) The city electrical inspector shall make all determinations with regard to matters referred to in this Chapter, using said code as a reference only, and shall not be bound by the strict application of the provisions thereof; provided, however, that any disputes regarding the application of principles or provisions included in such code shall be submitted to City Council for final determination. City Council may, but shall not be required to, employ any expert deemed by council to be suitable for such purpose to provide advice regarding the interpretation of the provisions of such code in the event of any such dispute, but council shall not be bound by any such advice or interpretation.

### **Sec. 4-21. Enforcing officer.**

The administration and enforcement of the provisions of this Code relating to electric service is assigned to and shall be the responsibility of the electrical inspector appointed by the City Council. If no city electrical inspector is appointed by City Council, the enforcement of this article shall primarily devolve upon the building inspector, and in such event any reference to the city electrical inspector shall apply to the building inspector; the city electrical inspector shall have the right to inspect and enter upon all premises and buildings that are wired for electricity to make such inspections as are necessary for the protection of the property and surrounding property and the public as a whole, and said electrical inspector is granted police powers to enforce this article, but the police department and the fire department shall also be charged with the enforcement of this article and shall so far as possible act in cooperation with the city electrical inspector.

### **Sec. 4-22. Appeal board.**

Appeals on rulings of city electrical inspector shall be to the City Council.

### **Sec. 4-23. Supervision of installation.**

The city electrical inspector is authorized empowered and directed to have general supervision over the placing, stringing, and attaching of telegraph, telephone, electric light or other wires and cables, and the placing of all poles and appliances, so as to prevent fires, accident or injury to persons or property; to cause all such wires and electric lights to be so placed, constructed, and guarded as not to cause fire, accident or endanger the life or property of any inhabitant of the city; and all such lights, wires and electrical apparatus now existing, as well as those hereafter constructed and placed, shall be subject to such provision.

### **Sec. 4-24. Liability for damage.**

This article shall not be construed to relieve from or lessen the responsibilities of any person owning, operating or installing electrical wires, appliances, apparatus, construction, or equipment for the damage to property or persons, injured by any defect therein, nor shall the city or any agent thereof be deemed to assume any such liability by reason of the inspection authorized herein or the certificate of inspection issued by the city electrical inspector.

**Sec. 4-25. License not required; contractor's bond.**

No license shall be required for an electrician to do work in the city. The electrical contractor, individual electrician or individual shall obtain a permit and show qualifications to the electrical inspector and in the event he is a contractor he shall post a bond in an amount satisfactory to the electrical inspector.

**Sec. 4-26. Permit-Required, exceptions.**

No person, except the public telephone company, telegraph messenger services, light and power companies and traction companies operating under a regular franchise granted by the city, shall erect, construct, alter or change any electrical installation, work, or fitting of electrical machinery until he has secured a permit as hereinafter provided.

**Sec. 4-27. Same-Application; fees.**

On application for a permit to the electrical inspector by any person who shows qualification to the inspector, or who is a person himself performing electrical work with his own hands in a building or home owned by him, it shall be the duty of the electrical inspector or his duly appointed representative to issue a permit, permitting each person to install electrical wiring as set forth in his application. Fees to be paid the city for permits shall be as established by City Council.

**Sec. 4-28. Same-Working without permit; authority to connect.**

- (1) It shall be unlawful for any person, including any electric service company, to do any wiring of any nature in or on any building (except power houses and substations of electric light, heat and power companies operating under a franchise granted by the city) for which a permit has not been issued, or to make any electrical connections to any building or electrical wiring or apparatus until a certificate of inspection or written statement authorizing connection has been issued by the city electrical inspector. All firms, corporations or individuals, operating under a regular franchise granted by the city shall, upon written notice by the city electrical inspector, disconnect any circuit, main service wires, branch feeder wires, or distribution system, as designated by said notice; and shall not reconnect to said installation except upon written permission from the city electrical inspector.
- (2) When for any reason, the electric service company finds it necessary to install electrical cabinets or special connections supplementing or replacing the existing service entrance wiring, the service company shall pay for and obtain from the city electrical inspector a permit for such installation and shall have work inspected in the manner prescribed elsewhere in this Code.

**Sec. 4-29. Same-Temporary; period, fee.**

Where the city electrical inspector finds it is necessary to have electricity on any electrical installation before final certificate can be issued, the city electrical inspector may issue a temporary permit, provided that all parts to which current is supplied are in a safe condition; and provided further, before said temporary permit is issued, the contractor or owner receiving same shall pay to the city therefor a fee in an amount determined by City Council. Said permit shall expire ninety (90) days from the date of issue. If, at the end of ninety (90) days, the installation is still incomplete, another permit must be taken out for the next thirty (30) days and each succeeding thirty (30) days while said installation is incomplete. If at the end of the original ninety (90) day permit period the electrical contractor has not secured a final inspection, or a thirty (30) day extension, temporary service shall be discontinued. A renewal fee for a new thirty (30) day extension will then be assessed before service can be re-established.

**Sec. 4-30. Routine inspection; correcting defects.**

The city electrical inspector may inspect any electrical wiring and apparatus in the city at any time in order to ascertain whether such electrical wiring or apparatus is in any respect dangerous

to life or property; and if any part of such electrical wiring or apparatus shall be found to be in defective or in dangerous condition, the city electrical inspector shall notify, in writing, the owner of such wiring or equipment to have the defect corrected within a reasonable time as specified by the electrical inspector. If the owner of the defective wiring or equipment refuses or fails to comply with the requirements of the electrical inspector and correct the defect as directed, within the specified time he will be held to be in direct violation of this article.

**Sec. 4-31. Emergency disconnection.**

In time of fire, severe weather conditions, or other emergency, wherein the safety of lives or property may be endangered by the continued operation of electrical service wires or apparatus, electrical current may be ordered disconnected by the electrical inspector, the City Administrator, the chief of the fire department, or the chief of police. Any such order shall be binding on every person owning or controlling such wire or apparatus. Such wire or apparatus as may be designated by any of the above authorized officials shall be promptly disconnected and left unconnected until proper authorization is given to reconnect same.

**Sec. 4-32. Disconnection when vacancy occurs; inspection before reconnection.**

The electric power supply company shall disconnect the electrical service to any building and premises except private residences and duplex apartments each time such building or premises has been vacated, and it shall not again supply electricity to such buildings or premises until authorized to do so by the electrical inspector. The owners or the new occupants of such buildings and premises shall make application to the city electrical inspector for an inspection. The city electrical inspector shall make the inspection within forty-eight (48) hours, exclusive of Saturdays, Sundays and holidays, of the time such application is made or as soon thereafter as practicable. No charge shall be made, nor fee collected, for such inspections.

**Sec. 4-33 -4-49. Reserved**

**ARTICLE III. HOUSE MOVING**

**Sec. 4-50. Permit-Required; compliance with prerequisites.**

No person shall move or transport any house or building over or along or across any street or alley of the city until after such person has made an application in writing to the building inspector, and shall have given bond and paid the required fee and deposit for costs, as hereinafter provided, and until a written permit has been issued authorizing the movement of such a house or building as herein provided.

**Sec. 4-51. Same-Application; fee as prescribed.**

Such application shall be in writing, signed by the applicant, and shall state the location of the house or building to be moved and the lot and block where it is to be placed after it is moved and the streets over which the same is to be moved and the time desired within which to move it. Said application shall be submitted to the building inspector. If the building inspector shall determine that such house or building may be moved in safety and in full compliance with the provisions of this article, he shall issue a permit to the applicant upon the payment by the application of a fee in the sum provided in the building code to cover the costs of investigating the application and of issuing the permit, which fee shall be deposited in the general funds of the city.

**Sec. 4-52. Indemnity bond.**

The building inspector shall also require the applicant to deposit a bond in an amount determined by City Council indemnifying the city from any cost or loss of any nature arising in any way from moving or transporting such house or any activity associated therewith.

**Sec. 4-53. Night operation prohibited; lights.**

No house or building shall be moved at night, nor be stopped or left on any street or alley of the city at night without prior permission of the building inspector and the chief of police and full compliance with any conditions made part of such permission must be maintained at all times.

**Secs. 4-54-4.59. Reserved.**

#### **ARTICLE IV. PLUMBING AND GAS FITTING**

**Sec. 4-60. Code adopted for reference purposes.**

- (1) There is hereby adopted by the city, for the purpose of providing a reference and resource for matters relating in any way to plumbing, gas fitting and associated matters, that certain plumbing code from time to time approved, recommended or otherwise supported by the Building Officials Association of Texas (BOAT) of the Texas Municipal League, or any successor; provided that if the said organization does not approve, recommend or support any such code, that the code hereby adopted shall be the same as is adopted or enforced from time to time by the largest city, in terms of population, in Bosque County, Texas.
- (2) The plumbing inspector shall make all determinations with regard to matters referred to in this Chapter, using said code as a reference only, and shall not be bound by the strict application of the provisions thereof; provided, however, that any disputes regarding the application of principles or provisions included in such code shall be submitted to City Council for final determination. City Council may, but shall not be required to, employ any expert deemed by council to be suitable for such purpose, to provide advice regarding the interpretation of the provisions of such code in the event of any such dispute, but council shall not be bound by any such advice or interpretation.

**Sec. 4-61. Enforcing officer.**

The administration and enforcement of the provisions of this Code relating to plumbing and gas fitting is assigned to and shall be the responsibility of the plumbing inspector appointed by the City Council. If no plumbing inspector is appointed by City Council, the enforcement of this article shall primarily devolve upon the building inspector, and in such event any reference to the plumbing inspector shall apply to the building inspector.

**Sec. 4-62. Same-Duties and powers.**

It shall be the duty of the plumbing inspector, either in person or by an authorized representative, to receive all applications for permits to install gas fitting or plumbing work, and to issue permits therefore, as herein provided. The plumbing inspector shall inspect all plumbing or gas fittings now in use or being constructed or which may hereafter be installed, altered, extended, or repaired in the city. The plumbing inspector making the inspection shall issue his approval of all such work which is found by him to comply with this article. By written order he shall direct the owner or person in charge of any building or structure where imperfect plumbing or gas fitting may be located, or the agent of such owner or person, to stop and prevent the use or construction of same until such plumbing or gas fitting shall have been properly installed or repaired. The plumbing inspector is authorized to enter any house or premises in the city at any time, upon presenting the proper identification, to inspect any plumbing or gas fitting therein, for the purposes of this article.

**Sec. 4-63. Permit and inspection fees.**

Permit and inspection fees shall be established by City Council and shall be paid to the city before the issuance of a permit and before any work is started.

**Sec. 4-64 -4-85. Reserved**

**ARTICLE V. UNSAFE STRUCTURES**

**Sec. 4-86. DEFINITIONS**

As used in this Article:

- (1) **Unsafe building or structure** means any premises, building or structure that is:
- (a) Regardless of the structural condition of the building or structure, unoccupied by its owners, lessees, or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or used by vagrants or other uninvited persons as a place of harborage or could be entered or used by minors; or
  - (b) Boarded up, fenced, or otherwise secured in any manner if:
    - (i) The building constitutes a danger to the public even though secured from entry; or
    - (ii) The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described in subdivision (a) of this definition; or
  - (c) Dilapidated, substandard or unfit for human habitation and a hazard to the public health, safety and welfare. A building, premises or structure that contains any of the following defects shall be considered an unsafe building or structure under this definition:
    - (i) Those buildings or structures whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
    - (ii) Those buildings or structures which, exclusive of the foundations, show 33 percent or more damage or deterioration to the supporting member or members, or 50 percent damage or deterioration to the nonsupporting enclosing or outside walls or covering;
    - (iii) Those buildings or structures:
      - a. Which have improperly distributed loads upon floors or roofs or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used; or
      - b. In which the stress in any material, member or portion thereof, due to all imposed loads, including dead load, exceeds the stresses allowed in the construction standards adopted by the city;
    - (iv) Those buildings or structures which have been damaged by fire, flood, earthquake, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the general public;
    - (v) Those buildings or structures which have been damaged by fire, flood, earthquake, wind, or other causes to the extent that the structural integrity of the building or structure is less than it was prior to the damage and is less than the minimum requirements established by the construction standards adopted by the city for new buildings;

- (vi) The condition of the structure or building is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein or to persons or property in its vicinity;
  - (vii) A building, structure, or portion thereof which, as a result of decay, deterioration or dilapidation, is reasonably likely to fully or partially collapse;
  - (viii) Those buildings or structures having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who occupy the building or structure;
  - (ix) Those buildings or structures having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes, or other means of communication in order to evacuate in a timely and expedient manner in order to avoid injury or peril from within;
  - (x) Those buildings or structures which have:
    - a. Parts thereof which are detached that they may reasonably be expected to fall and injure members of the public or property, or
    - b. Any exterior appendage or portion of the building or structure that is not securely fastened, attached or anchored such that it is capable of resisting wind or similar loads as required by the construction standards adopted.
  - (xi) Those residential buildings, structures, or a portion thereof, that do not contain sufficient space for sleeping or occupation of the building;
  - (xii) Those buildings or structures which because of their condition are unsafe, unsanitary or dangerous to the health, safety or general welfare;
  - (xiii) Those buildings or structures that are unsafe, unsanitary or not provided with adequate egress, or which constitute a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment;
  - (xiv) Those buildings or structures that have been constructed or maintained in violation of a specific requirement of any of the construction codes adopted in chapter 8 or contrary to any State law.
- (2) Structure means a building or other structure, part of a building or other structure or any improvement or part of an improvement.
- (3) Unsafe equipment means equipment on the premises or within a structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure to include any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment.

**Sec. 4-87 UNSAFE BUILDINGS, STRUCTURES AND EQUIPMENT DECLARED A NUISANCE.**

- (1) It shall be unlawful for any person to maintain or permit the existence of any unsafe building, structure or equipment in the city; and it shall be unlawful for any person to permit the same to remain in such condition.
- (2) All unsafe buildings, structures or equipment are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with procedures provided herein.

**Sec. 4-88. BUILDING SAFETY COMMITTEE.**

There is hereby created a building safety committee to be an agency and instrumentality of the city to aid and assist in the protection of the lives and property of its citizens under any and all applicable law. Said committee shall consist of the building inspector, chief of police and code enforcement officer. In the event any such position is vacant, or the person holding such position is unable to act, City Council shall appoint a suitable person to serve until such time as the position has been filled or the person holding such position is again able to act.

**Sec. 4-89. INVESTIGATION ON ORDER OF COUNCIL.**

- (1) The building safety committee may, at the request of the building inspector or any other city official, or upon receipt of a written complaint from any citizen or resident of the city, inspect or investigate any alleged violation of this article and provide information of such alleged violation to the City Council.
- (2) Whenever the City Council receives credible information from any source deemed reasonably reliable that any building constitutes a serious hazard to life or property due to its construction, condition, use or occupancy, or that any unsafe building, structure or equipment does, or may, exist within the city, the City Council may by motion direct the building safety committee to investigate, report the facts found by it, and make recommendations thereon.

**Sec. 4-90 NOTICE OF VIOLATION.**

- (1) Whenever it is determined by City Council that there are reasonable grounds to believe that an unsafe building, structure or equipment exists within the city, notice shall be given to the owner of such building, structure or equipment that a public hearing will be held before the City Council to determine whether the subject of such notice is an unsafe building, structure or equipment as defined in this article and shall specify the date, time, and location of the hearing before the City Council. At the discretion of the City Council, such notice may also be given to any lienholder or mortgagee, if readily ascertainable.
- (3) Such notice shall be given by personal delivery or by U.S. certified mail; provided, however that if personal service cannot be obtained and if the owner's post office address is unknown or if certified mail notice is returned unclaimed or undeliverable, such notice may be posted on or near the front door of the property in question or at some other place determined by the building inspector to be reasonably likely to be visible.

**Sec. 4-91 HEARING; ABATEMENT.**

- (1) The City Council shall hold a hearing to determine if a building, structure or equipment is a nuisance as defined in this article.
- (2) At any such hearing, the City Council shall receive information regarding the condition and occupancy of the building, structure or equipment and other information as it deems necessary to make its determination.
- (3) If the City Council determines that a building, structure or equipment constitutes a nuisance as defined in this article, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to abate the nuisance, and the time it will take to reasonably perform the work.
- (4) After a public hearing, if a nuisance as defined in this article is found to exist, the City Council may require the owner, lienholder, or mortgagee to, within 30 days, abate such nuisance and secure any subject building from unauthorized entry and/or to repair, remove, or demolish the building, whichever is applicable, unless the owner, lien holder, or mortgagee establishes at the hearing that the nuisance cannot be abated or all necessary work cannot reasonably be performed within 30 days.
- (5) The City Council may allow the owner, lienholder, or mortgagee more than 30 days to abate such nuisance and establish specific time schedules and other conditions for the commencement and performance of any such work; provided any subject building,

structure or equipment shall be secured from unauthorized access or entry while the work is being performed.

- (6) If the City Council allows the owner, lienholder, or mortgagee more than 90 days to complete any work required under this article, such person shall regularly submit progress reports to the building inspector to demonstrate compliance with the time schedules or any other conditions established.

**Sec. 4-92 ENFORCEMENT; REMEDIES.**

- (1) If, after the expiration of the time granted by the City Council for the abatement of a nuisance as provided in this article, there has not been compliance with the order of the City Council, the city may either:
  - (a) Refer the nuisance to Municipal Court for criminal prosecution;
  - (b) Vacate, secure, remove, or demolish any such building, structure or equipment and assess the expenses against the property upon which the same is located to the extent permitted by the law of the State of Texas;
  - (c) Repair such building, structure or equipment and, to the extent permitted by the law of the State of Texas, assess the expenses on the land upon which such building, structure or equipment stands or to which it is attached; or
  - (d) Assess a civil penalty against the property owner for failure to abate such nuisance.
- (2) The City Council, by order, may assess and recover a civil penalty against a property owner, if it is determined that:
  - (a) The owner was notified of the requirements of this article and the owner's need to comply with such requirements; and
  - (b) After notification, the owner committed an act in violation of this article or failed to take action necessary for compliance with this article.
- (3) An assessment of a civil penalty under this article is final and binding and constitutes prima facie evidence of the penalty in any suit brought by the city in a court of competent jurisdiction for final judgment in accordance with the assessed penalty.
- (4) To enforce the civil penalty under this chapter, the City Secretary shall file with the District Clerk of Bosque County a certified copy of the order, stating the amount and duration of the penalty. No other proof is required for District Court to enter final judgment on the penalty.

**Sec. 4-94. Wind powered generator structures**

Structures supporting wind powered generators shall be so located as to assure there will be no interference with overhead or underground utilities and that if any such structure or tower falls, it will not fall upon any adjoining property.

**Sec. 4-93 to 4-98-Reserved**

**Sec. 4-99 PENALTY.**

- (1) Any person violating an order of the City Council or the provisions of this article shall be deemed guilty of a misdemeanor and fined in accordance with the ordinances of the city and any applicable law of the State of Texas.
- (2) Following the procedures described in Sec. 4-92 hereof, the City Council, by order, may assess and recover a civil penalty against an owner in an amount not to exceed the maximum permitted by State Law.

## ARTICLE VI. MINIMUM HOUSING CODE

### DIVISION 1. GENERALLY

#### **Sec. 4-100. Definitions.**

For the purpose of this article, the following terms shall have the meanings respectively ascribed to them:

*Apartment house:* A series of dwellings under one roof.

*Building:* Any structure or part thereof not a dwelling.

*Building inspector:* The city building inspector or any designee.

*Commission:* The building standards commission of the city.

*Dwelling:* Any building or structure or part thereof, used for human habitation, or intended to be so used, and shall include any outhouses and appurtenances belonging thereto or used customarily therewith.

*Dwelling unit:* A group of rooms or a single room occupied, or designed for occupancy, as living quarters by a family or other group of persons living together or by a person living alone if such person is the sole occupant of the structure within which the dwelling unit is located. Further a dwelling unit is a group of rooms, occupied, or intended for occupancy as living quarters if it has separate cooking equipment. A single room, occupied or designed for occupancy as living quarters, is a dwelling unit if it has separate cooking equipment or if it constitutes the only living quarters in the structure.

*Garbage:* Animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food.

*Habitable room:* A room or enclosed floor space used or designed to be used for living, sleeping, cooking or eating purposes, excluding bathrooms, watercloset compartments, laundries, pantries, foyers, or communicating corridors, closets, and storage spaces.

*Litter:* Garbage, refuse and rubbish and all other waste material.

*Ordinary minimum winter conditions:* The temperature fifteen (15) degrees Fahrenheit above the lowest recorded temperatures for the previous ten (10) year period.

*Owner:* The owner of record as shown by the deed records of the county clerk of this county.

*Parties of interest:* All individuals, associations and corporations who have an interest of record in a dwelling or building or any who are in possession thereof.

*Refuse:* All putrescent and non-putrescent solid wastes (except body wastes) including, but not limited to, garbage, rubbish, ashes, street cleanings, dead animals, abandoned automobiles and solid market and industrial wastes.

*Rooming house:* A dwelling other than eleemosynary or other nonprofit institution, consisting of at least one dwelling unit occupied for four (4) or more persons not related by blood, marriage or adoption. This shall not be construed as meaning apartment houses.

*Rubbish:* Non-putrescent solid wastes consisting of both combustible and non-combustible wastes, such as paper, wrappings, cigarettes, cardboard, tin cans, yard clippings, leaves, wood, glass, bedding, crockery and similar materials.

*Structure:* Anything built that requires a permanent location.

*Unfit for human occupation:* The same as the term “uninhabitable and dangerous dwelling or buildings”.

*Uninhabitable and dangerous dwelling or building:* Any dwelling or building or structure which has any or all of the defects and deficiencies as listed in this article.

**Sec. 4-101. Penalty for violation.**

Any person, parties in interest, or corporation, who shall violate any of the provisions of this article or fail to comply therewith or with any of the requirements thereof shall be subject to a fine as provided herein. Each day that such violation shall be permitted to exist or continue shall constitute a separate offense. In the event a corporation is the violator of any of the provisions of this article, each officer, agent and employee of such corporation who is responsible for or contributes to such violation in any manner shall be individually and severally liable for the penalties herein prescribed.

**Sec. 4-102. Interpretation and conflict.**

In interpreting and apply the provisions of this article, they shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, morals, prosperity and general welfare.

Whenever in this article there may be restrictions or provisions which might conflict, the more restrictive restrictions or provisions shall apply.

**Sec. 4-103. Administrative liability.**

No officer, agent or employee of the city shall be individually liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this article. Any suit brought against any officer, agent or employee of the city as a result of this article, shall be defended by the city attorney until the final determination of the proceedings therein.

**Sec. 4-104-4-125. Reserved.**

DIVISION 2. MINIMUM STANDARDS

**Sec. 4-126. Compliance with provisions.**

All buildings, dwellings and dwelling units within the city which shall be used for the purpose of human habitation or residence shall comply with the provisions of this division.

**Sec. 4-127. Sink, lavatory.**

There shall be provided a kitchen sink and a lavatory basin connected to the municipal water and sewer systems, which sink and lavatory basin shall be installed in compliance with the plumbing code of the city.

**Sec. 4-128. Bathroom fixtures.**

There shall be provided in every dwelling unit a flush water closet and a bathtub or shower connected to the municipal water and sewer systems, which flush water closet and bathtub or shower shall be installed in compliance with the city plumbing code. Such flush water closet and bathtub or shower shall be enclosed in a separate room to afford privacy to a person within such room with no opening there from directly into a kitchen or other cooking area.

**Sec. 4-129. Fixtures connected to hot, cold water.**

Every kitchen sink, lavatory basin and bathtub or shower required by the provision of this article shall be connected with both hot and cold water lines.

**Sec. 4-130. Water heating equipment.**

There shall be provided water heating equipment and facilities in every dwelling unit which shall be installed in compliance with the city plumbing code, and connected with water lines, and shall be capable of heating water to such a temperature as to permit an adequate supply of hot water to be drawn at every required kitchen sink, lavatory basin, and bathtub or shower at a temperature of not less than one hundred twenty (120) degrees Fahrenheit. Such water heating facilities shall be capable of meeting the requirements of this section regardless of whether the heating facilities of the building, dwelling or dwelling unit are in operation.

**Sec. 4-131. Egress.**

In all buildings, dwellings or dwelling units there shall be provided safe and unobstructed means of egress leading to safe and open space at ground level, as required in the city building code.

**Sec. 4-132. Windows and skylights.**

Every inhabitable room shall have at least one (1) window or skylight facing directly to the outdoors. The minimum total window area measured between stops, for every habitable room shall be ten (10) per cent of the floor area of such room. Whenever walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three (3) feet from the window and extended to a level above that of the ceiling of the room, such a window shall not be deemed to face directly to the outdoors and shall be included as contributing to the required minimum total window area. Whenever the only window in a room is a skylight-type window in the top of such room, the total window area of such skylight shall equal at least fifteen (15) per cent of the total floor area of such room.

**Sec. 4-133. Minimum ventilation.**

Every habitable room shall have at least one (1) window or skylight which can easily be opened or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least forty-five (45) per cent of the minimum window area size, except where there is supplied some other device affording adequate ventilation and approved by the building inspector.

**Sec. 4-134. Window, ventilation in bathrooms.**

Every bathroom and water closet compartment shall comply with the light and ventilation requirements for habitable rooms contained in this article except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is kept in continuous operation and approved by the building inspector.

**Sec. 4-135. Heating facilities.**

Every dwelling shall have heating facilities which are installed in compliance with the standards and regulations set forth in the city plumbing code, building code and electrical code, which heating facilities shall be maintained in safe and good working condition and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit located therein to a temperature of at least seventy (70) degrees Fahrenheit at a distance of three (3) feet above floor level, under ordinary minimum winter conditions.

**Sec. 4-136. Screening.**

Every opening in any dwelling unit which is used for ventilation purposes from a dwelling or dwelling unit directly to or from outdoor space shall be equipped with screening which shall be provided by the owner. All screening required under this section shall not be less than sixteen (16) meshes to the square inch and shall be installed and maintained in a manner affording complete protection against entry in the dwelling or dwelling unit of flies, mosquitoes and insects.

**Sec. 4-137. Minimum floor area generally.**

Every dwelling unit shall contain at least one hundred fifty (150) square feet of floor space plus one hundred (100) square feet of floor space for each occupant, the floor space to be calculated on the basis of total habitable room area.

**Sec. 4-138. Minimum floor area for sleeping purposes.**

Every room occupied for sleeping purposes shall contain at least seventy (70) square feet of floor space for one (1) occupant and an additional fifty (50) square feet of floor space for each occupant above twelve (12) years of age.

**Sec. 4-139. Arrangement of rooms.**

No dwelling unit shall have room arrangements whereby access to a bathroom or water closet compartment intended for use by occupants of more than one (1) sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

**Sec. 4-140. Ceiling height.**

At least one-half (1/2) of the floor area of every habitable room shall have a ceiling height of at least seven (7) feet; and the floor area of that part of any room where the ceiling height is less than (5) feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy thereof.

**Sec. 4-141. Minimum responsibilities-Of occupant or owner.**

Every occupant, or when there is no occupant, the owner of a dwelling shall be responsible for the maintenance, cleanliness, extermination, good operating condition, and provisions of the following facilities, utilizes, portions of the dwelling and services to be provided, except where such responsibility is assumed by an operator or occupant in a formal lease agreement:

- (1) All halls, corridors, water closet compartments or bathrooms used in common by occupants of more than one (1) dwelling unit.
- (2) Provisions of garbage and refuse disposal facilities or containers where the number of dwelling units in a dwelling exceeds one (1).

- (3) Extermination of insects, rodents, or other pests except that if there are two (2) or more dwelling units in a dwelling and only one (1) dwelling unit is infested, the occupant of such infested dwelling unit shall be responsible for its extermination, unless the dwelling is not maintained in a reasonably ratproof or insect-proof condition.
- (4) Provision of all other facilities, utilities, services or conditions required by this article unless otherwise specified.
- (5) Cutting of grass, weeds and other growth on the premises where the number of dwelling units in a dwelling exceeds one (1) or if the dwelling unit is occupied.
- (6) The owner or person in control of any private property shall at all times maintain the premises free of litter; provided, however, this section shall not prohibit the storage of litter in authorized private receptacles for collection.
- (7) The owner or person in control shall exercise preventive maintenance, consisting of painting, waterproofing and repair to prevent deterioration due to the elements. This section shall include, but not be limited to, the prevention of; Loose siding, siding with holes, excessive cracks or rotted boards which permit air to penetrate rooms; loose roof covering; holes or leaks in the roof causing damage to structure of rooms; rotting, sagging or deteriorating supports or stairs, steps and porches, etc.

**Sec. 4-142. Same-Of occupant.**

Every occupant of a dwelling or dwelling unit shall be responsible for the following as applied to that portion of the dwelling or dwelling unit which he occupies and controls:

- (1) To keep occupied area and all plumbing equipment and facilities provided operating in a clean sanitary condition at all times.
- (2) To dispose of rubbish and garbage or store such wastes in proper containers in a neat and sanitary manner and to provide such disposal or storage facilities as are not required and provided under section 4-141(b).
- (3) Cutting of grass, weeds, and other growth on the premises.

**Secs. 4-143-4-150. Reserved.**

**DIVISION 4. REPAIR, VACATION, DEMOLITION OF NONCONFORMING BUILDINGS.**

**Sec. 4-151. Inspections-Authorized.**

The building inspector is hereby authorized and directed to make inspections to determine the conditions of buildings, dwellings, dwelling units and premises located within the city, in order that he may perform the duty of safeguarding the safety, health and welfare of the occupants and of the general public.

**Sec. 4-152. Same-Specifically required.**

The building inspector shall:

- (1) Inspect or cause to be inspected annually, or at such times as the commission may direct, all buildings, schools, halls, churches, theaters, hotels, tenements, and commercial, manufacturing or loft buildings for the purpose of determining whether any conditions exist which render such places an uninhabitable and dangerous dwelling or building.
- (2) Inspect any building, dwelling, dwelling unit, wall or other part thereof about which complaints are filed by any person or any city department, division or section to the effect that a building, dwelling, dwelling unit, wall or part thereof is, or may be, existing in violation of this chapter.
- (3) Inspect buildings, dwelling and dwelling units in all parts of the city to determine whether they are uninhabitable and dangerous dwellings or buildings.

**Sec. 4-153. Same-Right of entry.**

For the purpose of making the inspections authorized and required by the provisions of this division, the building inspector is hereby authorized to enter, examine and survey at all reasonable times all buildings, dwellings, dwelling units and premises within the city. The owner or occupant of every building, dwelling and dwelling unit or the person in charge thereof, shall give the building inspector free access to such building, dwelling or dwelling unit and its premises, at all reasonable times for the purpose of such inspection, examination and survey.

**Sec. 4-154. Right of entry of owner.**

Every occupant of a building, dwelling or dwelling unit shall give the owner thereof or his agent or employee access to any part of such building, dwelling or dwelling unit, or its premises at all reasonable times for the purpose of making repairs or alterations or for such other purposes as are necessary to effect compliance with the provisions of this article.

**Sec. 4-155. Conditions or defects constituting an uninhabitable and dangerous dwelling or building.**

Any dwelling or building that would constitute an unsafe building or structure as the same is defined in Sec. 4-86 of this code shall also be considered an uninhabitable and dangerous dwelling or building and shall be subject, as such, to the provisions of Article V of this code.

**Sec. 4-158. Posting of placard.**

If the building inspector shall, upon inspection of any building, dwelling unit or premises within the city, find the same to uninhabitable and dangerous, he shall place a placard on the uninhabitable and dangerous dwelling or building reading as follows:

“THIS BUILDING HAS BEEN FOUND TO BE AN **UNINHABITABLE AND DANGEROUS STRUCTURE** BY THE BUILDING INSPECTOR. THIS BUILDING IS TO BE VACATED IMMEDIATELY. THIS PLACARD IS TO REMAIN ON THE STRUCTURE UNTIL IT IS REPAIRED OR DEMOLISHED IN ACCORDANCE WITH THE NOTICE DATED \_\_\_\_\_ WHICH HAS BEEN MAILED TO THE OWNER, OCCUPANT, OR MORTGAGEE OF THIS BUILDING, AND ALL OTHER PERSONS HAVING AN INTEREST IN SAID BUILDING OR PROPERTY AS SHOWN BY THE DEED RECORDS OF BOSQUE COUNTY, TEXAS. IT A VIOLATION OF THE VALLEY MILLS MINIMUM HOUSING CODE FOR ANYONE TO REMOVE THIS PLACARD UNTIL SUCH NOTICE HAS BEEN COMPLIED WITH.

SIGNED \_\_\_\_\_  
BUILDING INSPECTOR”

No person shall occupy any dwelling, dwelling unit, lodging house, boardinghouse or lodging unit posted with such placard nor shall any person deface, destroy or remove any such placard.

**Sec. 4-159. Vacation of buildings.**

Where any building, structure or dwelling, or portion thereof fails to comply with the provisions of this article because of the particular use of such building, dwelling, structure, or portion thereof, it shall be unlawful for any person to make such or allow such use to be made of such or allow such use to be made of such building, dwelling, structure of portion thereof. Whenever a dwelling, dwelling unit, lodging house, boardinghouse or lodging unit is found to violate section 4-155 and to present an immediate danger requiring demolition of the premises because of

potential injury to occupants, the building inspector shall order the immediate evacuation of the structure and such structure shall remain vacated until the danger is eliminated.

**Sec. 4-160. Placard building to be secured.**

When the placard authorized by section 4-158 has been posted on any building, dwelling, dwelling unit or premises in the city found to be in violation of this article, the owner or operator thereof shall make such structure safe and secure from entry by unauthorized persons.

**Sec. 4-161. Elimination of condition of uninhabitable and dangerous buildings-Declaration of nuisance, remedying.**

All uninhabitable and dangerous dwellings or building are hereby declared to be public nuisances, and shall be subject to the provisions of Article V of this code.

**Secs. 4-162-4-179, Reserved.**

**ARTICLE VII. ZONING ORDINANCE**

**Sec. 4-180. Zoning Ordinance incorporated.**

The Zoning Ordinance of the City of Valley Mills, Texas, adopted on \_\_\_\_\_, 19\_\_, and as the same may have been subsequently amended or modified, is hereby incorporated into this Code of Ordinances in its entirety as if fully rewritten herein, and any amendment to said Ordinance occurring subsequently to this incorporation shall be deemed to be an amendment of this Code in the same manner and to the same effect; if any provision of such Ordinance shall be in conflict with any provision of this Code now in effect or hereinafter adopted, the latest provision adopted shall be given the fullest possible effect, provided that if it is not reasonably possible to determine which such provision shall be the later adopted, then the provisions of the Zoning Ordinance shall be given effect.

Chapter 5

**CIVIL DEFENSE AND DISASTER RELIEF**

**(Reserved)**

## Chapter 6

### **POLICE DEPARTMENT**

#### **Sec. 6-1. Office of Marshall abolished.**

The office of Marshall is hereby abolished.

#### **Sec. 6-2. Police Department created; appointment, etc.**

The Valley Mills Police Department is hereby created. The Valley Mills Police Department shall be under the management of the police chief and shall be independent of other city departments. All officers of the Valley Mills Police Department, including reserve officers are "at will" employees of the City of Valley Mills and will serve at the discretion of the Police Chief, subject to discretionary review by the City Council.

#### **Sec. 6-3. Office of Police Chief created; appointment, etc.**

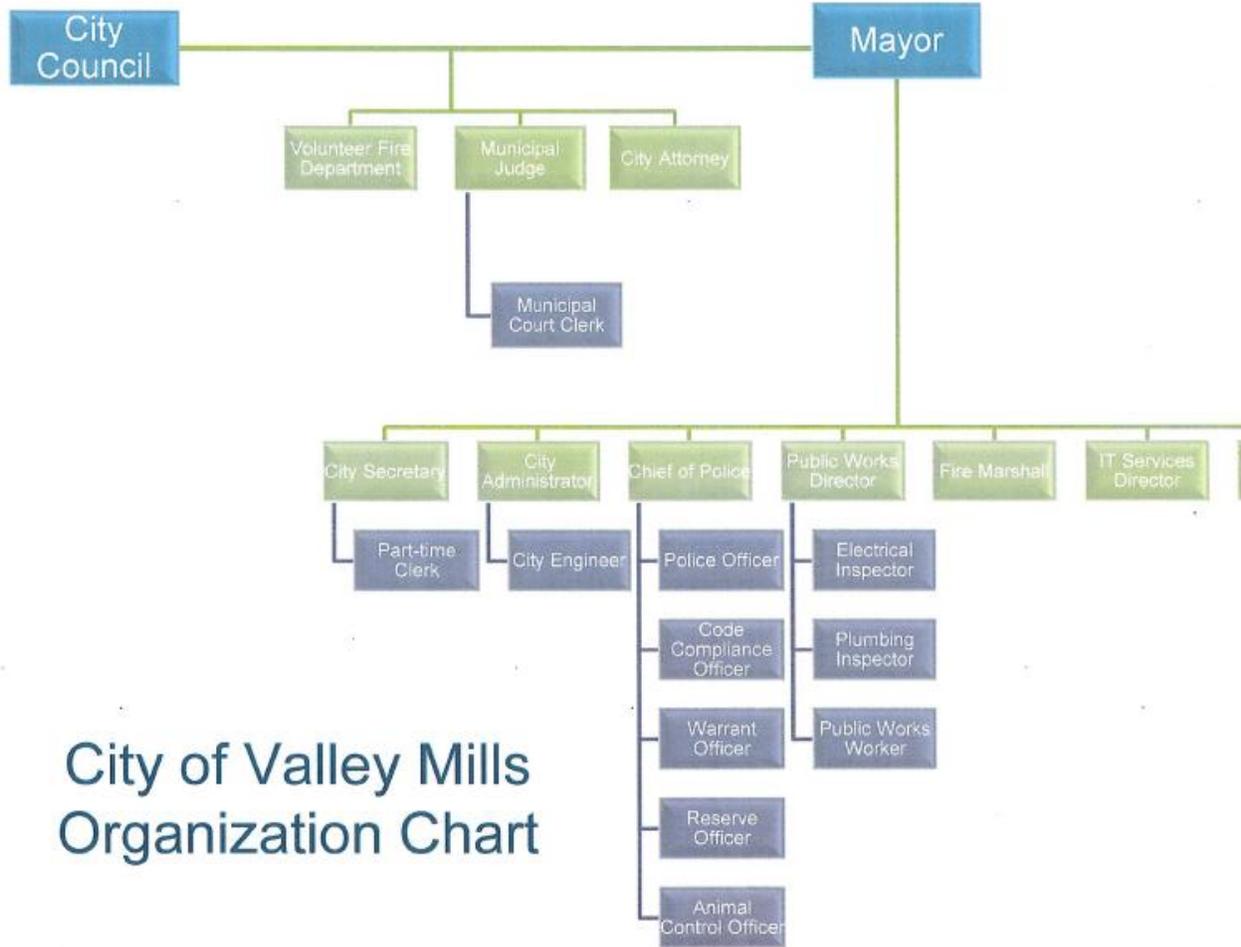
The office of Police Chief is hereby created. Such office shall be independent of other city departments, the Police Chief reporting directly to the Valley Mills Mayor. The Mayor has oversight of the Police Chief in the day to day activities. The City Council will continue to have authority over the employment status of the Police Chief and officers.

Police chief shall be appointed in accordance with *Code of Ordinances, City of Valley Mills, Texas, Sec. 2-3, Appointments, procedure for making*. The Police Chief shall be an "at will" employee of the City of Valley Mills and will serve at the discretion of the Mayor and City Council.

#### **See Organization Chart Below**

#### **Sec. 6-4. Police Reserve Force established.**

The Police Chief is hereby authorized to establish a police reserve force, the members of which are to serve as members of the Valley Mills Police Department. The Police Chief is directed to select members for appointment to the police reserve force acting in lieu of the Mayor in accordance with *Code of Ordinances, City of Valley Mills, Texas, Sec. 2-3, Appointments, procedure for making* and also in accordance with Texas law in effect at the time (currently Local Government Code, Sec. 341.0120).



City of Valley Mills  
Organization Chart

## Chapter 7

### FINANCE AND TAXATION

#### **Sec. 7-1. Delinquent tax interest.**

Interest at the highest rate permitted by the laws of the State of Texas shall be charged on all delinquent taxes due to the city, on the first day of June following such delinquency; provided, if such delinquency occurs on or after the first day of June, such interest shall begin to run as of the date of such delinquency. The tax assessor and collector shall collect said interest on delinquent taxes.

#### **Sec. 7-2. Hotel Occupancy Tax.**

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

***Consideration.*** Shall mean the cost of the room, sleeping space, bed or dormitory space but shall not include the cost of any food served or personal services rendered to the occupant not related to cleaning and readying such room or space for occupancy and shall not include any tax assessed for the occupancy thereof by any other governmental agency.

***Hotel.*** Shall mean a building in which members of the public obtain sleeping accommodations for consideration. The term includes a hotel, motel, tourist home, tourist house, tourist court, lodging house, inn, rooming house, or bed and breakfast. The term does not include a hospital, sanitarium, or nursing home, a dormitory or other housing facility owned or leased and operated by an institution of higher education or a private or independent institution of higher education as those terms are defined by Section 61.003 of the Texas Education Code, used by the institution for the purpose of providing sleeping accommodations for persons engaged in an educational program or activity at the institution; or an oilfield portable unit as defined by Section 152.001 of the Texas Tax Code. A Hotel also includes a short-term rental and includes the rental of all or part of a residential property to a person who is not a permanent resident under Section 156.101 of the Texas Tax Code.

***Occupancy.*** Shall mean the use or possession, or the right to the use or possession of any room, space or a sleeping facility.

***Occupant.*** Shall mean anyone who, for consideration, uses, possesses or has the right to use or possess any room or rooms, or sleeping space or facility in a hotel under any lease, access, license, contract or agreement.

***Permanent Resident.*** Shall mean any occupant who has or shall have the right of occupancy of any room or rooms in a hotel for at least thirty (30) consecutive days during the current calendar year or preceding year.

***Person.*** Shall mean any individual, company, corporation or association owning, operating, managing or controlling any hotel.

***Quarterly Period.*** Shall mean the regular calendar quarters of the year, the first quarter being composed of the months of January, February, and March; the second quarter being the months of April, May and June; the third quarter being the months of July, August, and September; and the fourth quarter being the months of October, November and December.

## **1. TAX LEVY, COLLECTION REPORTING**

### **A. Tax Levied; Amount; Exceptions**

(1) There is hereby levied a tax upon the cost of occupancy of any room or space furnished by any hotel where such cost of occupancy is at the rate of two dollars (\$2.00) or more per day, such tax to be equal to seven percent (7%) of the consideration paid by the occupant of such room to such hotel, exclusive of other occupancy taxes imposed by other governmental agencies.

(2) No tax shall be imposed hereunder upon a permanent resident.

(3) No tax shall be imposed hereunder upon a corporation or association organized and operated exclusively for religious, charitable or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(4) No tax shall be imposed hereunder upon an employee of the United States government traveling on official business.

(5) No tax shall be imposed hereunder upon an employee of the State of Texas or an employee of any other state in these United States who is travelling on official business.

(6) No tax shall be imposed hereunder upon diplomatic personnel who present a Tax Exemption card issued by the United States Department of State.

(7) No tax shall be imposed hereunder upon military personnel traveling on official military business. This exemption does not apply to military staff on leave or between stations.

### **B. Collection of Tax**

(1) Every person owing, operating, managing or controlling any hotel shall collect the tax imposed by this ordinance for the City of Valley Mills.

(2) The failure of a person owning, operating, managing or controlling a hotel to collect sufficient monies from occupants to satisfy the Hotel Occupancy Tax shall not excuse the obligation to pay said tax to the City.

(3) Any person who receives or collects the Hotel Occupancy Tax from an occupant shall hold the amount so collected in trust for the City and is liable to the City for the full amount collected plus any accrued penalties and interest on the amount collected.

### **C. Filing of Quarterly Report and Payment of Tax**

(1) On the last day of the month following each quarterly period, every person required in this ordinance to collect the tax imposed herein shall file a report with the City Secretary showing the consideration paid for all room occupancies in the preceding quarter, the amount of the tax collected on such occupancies and any other information the City may reasonably require in rules and regulations to the collection and reporting of the tax.

(2) Such person shall pay the tax due on such occupancies at the time of filing such report.

(3) Every person required to collect the tax and file the report with the City, shall also furnish to the city administrator at the time of payment of said tax a copy of the quarterly report filed with the state comptroller in connection with the State of Texas Hotel Occupancy Tax.

(4) The report shall be in a form prescribed by the City Council. If the City Council has not prescribed such a form, the format of the report shall be similar to that of the form used by the State of Texas to report hotel occupancy tax.

#### **D. Authority to Promulgate Rules and Regulations; Access to Books and Records**

The mayor shall have the power to make such rules and regulations as are reasonable and necessary to effectively collect the tax levied hereby, and shall upon reasonable notice have access to books and records necessary to enable him/her or designee to determine the correctness of any report filed as required by this article and the amount of taxes due under the provisions of this article.

#### **E. Criminal Penalties for Failure to Collect Tax, Make Reports and Pay Tax**

If any person required by the provisions of this ordinance to collect the taxes imposed herein, make reports as required herein and pay the tax imposed herein, shall fail to collect such taxes, file such report or pay such taxes, or if any such person shall file a false report, such person shall be guilty of a misdemeanor and upon conviction be punished in an amount not to exceed \$500.00. Each day that a violation continues shall constitute a separate offense.

#### **F. Administrative Penalties for Failure to Collect Tax, Make Reports and Pay Tax**

If any person required by the provisions of this ordinance to collect the taxes imposed herein, make reports as required herein and pay the tax imposed herein, shall fail to collect such taxes, file such report or pay such taxes, or if any such person shall file a false report, such person shall pay a penalty equal to 15 percent of the total amount of the tax owed if the tax has been delinquent for at least one complete municipal fiscal quarter.

#### **G. Additional Penalties**

The City may also pursue any remedy authorized by the Texas Tax Code Chapter 351 for a municipality of its type and size.

#### **H. Tax Applies to Extraterritorial Jurisdiction**

The provisions of this ordinance as may be amended from time to time shall apply to all territory within the extraterritorial jurisdiction of the City as the same may exist from time

to time, and the same shall be and is hereby imposed on all applicable persons within the said extraterritorial jurisdiction of the City.

#### **I. City Administration of the Hotel Occupancy Tax**

The administration of this Hotel Occupancy Tax and use of funds collected by the tax are restricted by state law. Administration and expenditures shall be in accordance with the provisions of the state law regarding hotel occupancy taxes found at Texas Tax Code and Ch. 351 of the Texas Tax Code.

Chapter 8

**FIRE PROTECTION AND PREVENTION**

Art. I.	In General,	§§ 8-1-8-12.
Art. II.	Fire Marshal,	§§ 8-13-8-3
Art. III.	Code,	§§ 8-34-8-50
Art. IV.	Fireworks,	§§ 8-51-8-59

**ARTICLE I. IN GENERAL**

**Acts likely to cause fire damage.**

It shall be unlawful for any person, outside of a building to burn any trash, shavings or other combustible material, or light or make or cause to be lighted, or make any fire in any street, alley, square, thoroughfare, or public place, or to build or make any fire, deposit any ashes or hot embers, or to do anything on any premises liable to cause fire in the surrounding buildings, or cause or authorize the same to be done, or to carry or cause to be carried in any public place any fire, burning coals or brand, unless the same be shut up in a covered vessel, or to carry or cause to be carried in any place containing hay, straw, shavings, or other combustible material, any lighted candle or brand unless the same be securely enclosed against all accidents.

**Sec. 8-1. Definitions.**

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

*Ceremonial fire* means a fire that is part of a ceremony or ritual that is prescribed by custom, ritual, protocol, or convention.

*Garbage* means solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including waste materials from markets, storage facilities, and handling and sale of produce and other food products.

*Outdoor burning* means any fire or smoke-producing process that is not conducted in a combustion unit.

*Practical alternative* means an economically, technologically, ecologically, and logistically viable alternative to air curtain incinerators.

*Recreational fire* means an outdoor fire that burns materials other than garbage and rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, barbeque grill or barbeque pit and has a total fuel area of three (3) feet or less in diameter and two (2) feet or less in height and such fire is intended to be for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

*Rubbish* means non-putrescible solid waste, consisting of both combustible and noncombustible waste materials. Combustible rubbish includes paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, and similar materials. Noncombustible rubbish includes glass, crockery, tin cans, aluminum cans, metal furniture, and like materials that will not burn at ordinary incinerator temperatures (1,600 to 1,800 degrees Fahrenheit).

*Tree and shrubbery trimmings* means a waste accumulation of tree branches, tree limbs, parts of trees, bushes, shrubbery, or other trimmings usually created as refuse in the case of trees and bushes.

*Vegetative debris* means tree and shrubbery trimmings and yard trash.

*Yard trash* means waste accumulation of lawn, grass, shrubbery cuttings or clippings and dry leaf rakings, free of dirt, rocks, large branches and bulky or noncombustible material.

#### **Sec. 8-2. Outdoor burning.**

(a) It shall be unlawful for any person to burn outdoors, or allow to be burned outdoors, within the city, any garbage, animal carcasses, rubbish, vegetative debris, except as is stated in subsections (e) and (f).

(b) It shall be unlawful for any person owning or occupying, or being in charge and control of, any premises within the city, to burn or cause to be burned uncut grass, weeds, shrubbery, or trees growing on such premises.

(c) Firefighting personnel shall be exempt from this section if the outdoor burning is solely for firefighting training and if approved by the Texas Commission on Environmental Quality.

(d) City personnel shall be exempt if the outdoor burning is limited to brush, trees, and other plant growth that are causing a detrimental public health and safety condition and the burning takes place at a site owned by the city and the city has received approval from the Texas Commission on Environmental Quality.

(e) Recreational fires shall be allowed, but are subject to the following:

1. Recreational fires may not contain electrical insulation, garbage, treated lumber, animal carcasses, rubbish, plastics, construction or demolition materials not made of wood, heavy oils, asphalt materials, potentially explosive materials, chemical waste, or items containing natural or synthetic rubber.

2. Recreational fires may not burn on the ground. Instead, all recreational fires must be held in a container such as a cast iron fire pit, chiminea, cement block fire pit, or other similar container. All containers for recreational fires shall have a spark arrestor.
3. Recreational fires shall be not less than fifteen (15) feet from any structure.
4. Recreational fires shall be constantly attended until the fire is extinguished. At least one portable fire extinguisher or other on-site fire-extinguishing equipment, such as dirt, sand, or garden hose, shall be available for immediate use.
5. No recreational fires shall occur during a time in which a county burn ban is in effect for Bosque or McLennan Counties.

(f) Cooking fires contained in barbeque grills, barbeque pits, and other open flame cooking devices shall be allowed, but are subject to the following:

1. In multi-family dwellings, barbeque grills, barbeque pits, and other open flame cooking devices shall not be operated on balconies or within 10 feet of combustible construction unless the buildings, balconies, and decks are protected by an automatic sprinkler system.
2. The fires shall be constantly attended until the fire is extinguished. At least one portable fire extinguisher or other on-site fire-extinguishing equipment, such as dirt, sand, or garden hose, shall be available for immediate use.

(g) The authority to burn under this article does not relieve the persons conducting the outdoor burning from responsibility for the consequences, damage, or injuries resulting from the burning and does not exempt such persons from complying with all other applicable laws and ordinances, regulations or orders of governmental entities having jurisdiction.

(h) The fire marshal or his designee, fire chief or his designee, any code enforcement officer, or any peace officer may prohibit any and all fires or order the immediate extinguishment of any and all fires when atmospheric conditions or other circumstances make such fires an immediate threat to public safety or the smoke or ash from such fires becomes a public nuisance.

(i) The Bosque and/or McLennan Sherriff's department must be notified of any burning.

**Sec.8-3.** All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict only.

**Sec. 8-4.** A violation of this ordinance shall be a Class C misdemeanor.

**Sec. 8-5.** If any part or portion of this ordinance shall be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect or impair any remaining portions or provisions of this ordinance.

**Sec. 8-6-8-12. Reserved.**

## **ARTICLE II. FIRE MARSHAL**

**Sec. 8-13. Office created; appointment, etc.**

The office of fire marshal is hereby created. Such office shall be independent of other city departments, the fire marshal reporting directly to the City Council. The voluntary fire department of the city shall make recommendations to the City Council as to its choice of fire marshal. After the City Council has received the recommendation<sup>3</sup> of the volunteer fire department, such office

shall be filled by appointment by the mayor, by and with the consent of the City Council, as provided herein. The fire marshal shall be properly qualified for the duties of such office. The Fire Marshal shall be an "at will" employee of the City of Valley Mills and will serve at the discretion of the City Council

**Sec. 8-14. Investigation and record of fires generally.**

The fire marshal shall investigate the cause, origin and circumstances of every fire occurring within the city by which property has been destroyed or damaged, and shall especially make investigation as to whether such fire was the result of carelessness or design. Such investigation shall be begun within twenty-four (24) hours, not including Sunday, of the occurrence of such fire. The fire marshal shall keep in his office a record of all fires, together with all facts, statistics and circumstances, including the origin of the fires and the amount of the loss, which may be determined by the investigation required by this article.

**Sec. 8-15. Evidence-Investigating and gathering; arrest of offenders.**

The fire marshal, when in his opinion further investigation is necessary, shall take or cause to be taken the testimony, on oath, of all persons supposed to be cognizant of any facts or to have means of knowledge in relation to the matter under investigation, and shall cause the same to be reduced to writing; and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, or with the attempt to commit the crime of arson, or of conspiracy to defraud, or criminal conduct in connection with such fire, he shall cause such person to be lawfully arrested and charge with such offense, and shall furnish to the proper prosecuting attorney all such evidence, together with the names of witnesses and all of the information obtained by him, including a copy of all pertinent and material testimony taken in the case.

**Sec. 8-16. Same-Summoning and swearing witnesses; production of books.**

The fire marshal shall have the power to summon witnesses before him to testify in relation to any matter which is by the provisions of this article a subject of inquiry and investigation, and may require the production of any book, paper or document deemed pertinent thereto. The fire marshal is authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

**Sec. 8-17. Same-Refusal of witness to testify, contempt, etc.**

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of the fire marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation to any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted.

**Sec. 8-18. Same-Exclusion of witnesses.**

All investigations held by or under the direction of the fire marshal may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined.

**Sec. 8-19. Right of entry-Where fire has occurred.**

The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other building or premises

adjoining or near the same, which authority shall be exercised only with reason and good discretion.

**Sec. 8-20. Same-To determine conditions; remedying dangerous conditions.**

The fire marshal, upon complaint of any person having an interest in any building or property adjacent and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises in the city, and it shall be his duty, monthly or more often, to enter upon and make or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public building, together with the premises belonging thereto. Whenever he shall find ay building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals, vegetable products, ashes, combustible, inflammable and refuse materials or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with the owner or occupant of said building or premises. Provided, however, if said owner or occupant deems himself aggrieved by such order, he may, within five (5) days, appeal to the council, which shall investigate the cause of the complaint and unless by its authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. At the end of each month the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with separate reports on each fire in the city during the month.

**Sec. 8-21. Prohibited conditions-Dilapidations, etc.**

Any owner or occupant of a building or other structure or premises, who shall keep or maintain the same when, for want or repair, or by reason of age or dilapidate condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein, shall be punished as provided herein.

**Sec. 8-22. Same-Stove arrangements, etc.**

Any owner or occupant of any building or other structure, or premises, who shall keep or maintain the same with an improper arrangement of a stove, range furnace, or other heating appliance of any kind whatever, including chimneys flues and pipes with which the same may be connected, so as to be dangerous in the matter of fire, or health, or safety of persons or property of others; or who shall keep or maintain any building, other structure or premises with an improper arrangement of lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen, or occupants of such building, structure or premises together than the maintainer thereof, shall be punished as provided herein.

**Sec. 8-23. Same-Notice prerequisite to prosecution.**

No prosecution shall be brought under section 8–21 or 8–22 until the order provided for in section 8- 20 be given and the party notified shall fail or refuse to comply with the same.

**Sec. 8-24-8-33. Reserved.**

**ARTICLE III. CODE**

**Sec. 8-34. Adoption.**

There is hereby adopted by the city for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion, that certain code known as the Fire Prevention Code, Abbreviated Edition, recommended by the American Insurance Association, as the same exists at the time of the adoption of this ordinance or as may be amended or substituted, and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date on which this section shall take effect, the provisions thereof shall be controlling within the limits of the city, subject to all delegations, amendments and conflicting provisions contained in this Code of Ordinances. Any mentions of specific sections of said code are for reference only, and shall be deemed to refer to the section or sections of such code as amended or substituted, in effect at the time of consideration.

**Sec. 8-35. Enforcement.**

The fire prevention code hereby adopted shall be enforced by the building inspector of the city.

**Sec. 8-36. Definitions.**

Wherever the word "municipality" is used in the fire prevention code hereby adopted, it shall be held to mean this city.

Whenever the term "chief of the fire department" is used in the fire prevention code hereby adopted, it shall be held to mean the building inspector of the city.

**Sec. 8-37. Establishment of limits of districts in which storage of explosives and blasting agents, storage of flammable liquids in outside aboveground tanks and bulk storage of liquid petroleum gases is to be restricted.**

The limits referred to in section 53B of the fire prevention code hereby adopted, in which storage of explosives and blasting agents is prohibited, the limits referred to in section 74a of the code hereby adopted in which storage of class I liquids in outside aboveground tanks is prohibited, and the limits referred to in section 114 of the code hereby adopted, in which bulk storage of liquefied petroleum gas is restricted are hereby established as the entire city.

**Sec. 8-38. Modifications.**

The building inspector shall have power to modify any of the provisions of the fire prevention code hereby adopted upon application in writing by the owner or lessee, or his duly authorized agent, when there are practical difficulties in the way of carrying out the strict letter of the code, provided that the spirit of the code shall be observed, public safety secured, and substantial justice done. The particulars of such modification when granted or allowed and the decision of the building inspector thereon shall be entered upon the records of the department and a signed copy shall be furnished the applicant.

**Sec. 8-39. Appeals.**

Whenever the building inspector shall disapprove an application or refuse to grant a permit applied for, or when it is claimed that the provisions of the code do not apply or that the true intent and meaning of the code have been misconstrued or wrongly interpreted, the applicant may appeal from the decision of the building inspector to the City Council within thirty (30) days from the date of the decision appealed.

**Sec. 8-40. Penalties.**

Any person who shall violate any of the provisions of the fire prevention code hereby adopted or fail to comply therewith, or who shall violate or fails to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and

approved thereunder, or any certificate or permit issued thereunder, and from which no appeal has been taken, or who shall fail to comply with such an order as affirmed or modified by the City Council, or by a court of competent jurisdiction, within the time fixed herein, shall severally for each such violation and noncompliance respectively, be guilty of a misdemeanor, punishable as provided in this Code of Ordinances. The imposition of one penalty for any violation shall not excuse the violation or permit to continue; and all such persons shall be required to correct or remedy such violations or defects within a reasonable time; and when not otherwise specified, each ten (10) days that prohibited conditions are maintained shall constitute a separate offense.

**Sec. 8-41-8-50. Reserved.**

**ARTICLE IV. FIREWORKS**

**Sec. 8-51. Council authorization-For discharging.**

It shall be unlawful for any person to discharge, fire or set off any pyrotechnic exhibition, rock, Roman candle, blue light, squib, cracker, or other fireworks whatever, unless authorized by the City Council.

**Sec. 8-52. Same-For selling or keeping.**

It shall be unlawful for any person to sell, wholesale or retail, or to keep for the purposes of selling, wholesale or retail any pyrotechnic exhibition materials, rocket, Roman candle, blue light, squib, cracker, or other fireworks whatsoever, unless authorized by the City Council.

**Sec. 8-53. Permit from fire marshal-Required for keeping or storing.**

It shall be unlawful for any person to keep and store fireworks of any kind, including rockets, blue lights, squibs, crackers, Roman candles, sparklers, bombs or any other fireworks whatsoever, unless a written permit is granted by the fire marshal of the city for keeping and storing of fireworks.

**Sec. 8-54. Same-Fees; period.**

Any person before being granted a permit to keep or store fireworks shall pay to the fire marshal a permit fee in an amount determined by City Council. Any permit issued upon the payment of the fees herein provided shall be good for sixty (60) days only from the date of issuance.

**Sec. 8-55. Same-Revocation for violation.**

In the event any person violates any of the terms of this article, in addition to being subject to punishment as provided herein, the permit shall immediately be revoked.

**Sec. 8-56. Storage near buildings.**

It shall be unlawful for any person to keep or store fireworks within any house, building or other structure within the city that is located closer than ten (10) feet to any other house, building or structure.

**Sec. 8-57. Identification of building where stored.**

Any house, building or other structure in which fireworks are kept, or stored shall have painted on the outside of said house, building or structure, a sign with letters of not less than five (5) inches in height, the word "fireworks."

**Sec. 8-58. Minimum age of employees where stored.**

No person shall be employed in any place where fireworks are kept or stored who is not at

least eighteen (18) years of age.

**Sec. 8-59. Inflammable materials to be cleared.**

The premises in which the fireworks are stored shall be kept free at all times of any rubbish, paper or other inflammable materials and no storage of any inflammable materials shall be kept or allowed to be kept any closer than twenty-five (25) feet from where the fireworks are kept and stored.

## Chapter 9

### **GARBAGE, TRASH AND WEEDS**

#### **Sec. 9-1. Definitions**

The definitions contained in Tex. Health and Safety Code Section 343.002 shall apply to this Chapter unless a term is otherwise defined herein; the following terms shall have the meaning ascribed to them below: . . .”

*Approved enclosure.* A structure or enclosure with at least three sides which is intended, and used, to store trash containers so that the same are kept in place and protected from wind and, to the extent possible, from access by animals; such enclosures may be used only if approved by the Building Inspector, or designate, with regard to construction and location.

*Garbage.* All animal and vegetable matter, waste material, refuse and other deleterious substances.

*Single family dwelling.* A building or any part thereof used exclusively as living quarters for any number of individuals living together as a single housekeeping unit.

*Trash.* Rubbish, and other discarded materials such as metal, paper, plastic or glass containers; rags; wrappings; waste; yard cleanings, grass clippings; bush trimmings and tree trimmings. Also any item that is broken, worn out or no longer serviceable, including, but not limited to, appliances, furnishings, scrap building materials and apparel.

#### **Sec. 9-2. Depositing garbage, trash, etc., on streets, vacant lots, etc.**

It shall be unlawful for any person to sweep, throw or deposit any garbage, trash, dirt, stagnant water or dead animal into, upon or along any drain, gutter, alley, sidewalk, street, or vacant lot or upon any public or private premises within the city.

#### **Sec. 9-3. Containers-Required.**

Every owner, occupant, tenant or lessee using or occupying any building, house or structure within the city for residences, churches, schools, colleges, lodges, commercial, business and other purposes shall provide and maintain garbage and trash containers of sufficient number and size, as hereinafter specified, to hold the garbage and trash that will normally accumulate on the premises.

#### **Sec. 9-4. Same-Specifications of garbage containers**

Unless a container is provided by the collector, each of such owners, occupants, tenants or lessees shall provide at least one (1) container for garbage of not less than ten (10) nor more than thirty (30) gallons capacity, constructed of galvanized iron, tin or other suitable metal or substantial plastic, with a tight fitting lid or cover and with handles sufficiently strong for collectors to empty conveniently; plastic bags may be used provided adequate steps are taken to protect them from access by animals.

#### **Sec. 9-5. Same-Specifications of trash containers.**

Unless a container is provided by the collector, every owner, occupant, tenant or lessee shall, in addition to providing the garbage container or containers provided in the previous section, provide at least one (1) container for trash of not less than ten (10) nor more than thirty (30) gallons capacity, constructed of galvanized iron, tin or other suitable metal or substantial plastic, with a tight fitting lid or cover and with handles sufficiently strong for collectors to empty

conveniently; plastic bags may be used provided adequate steps are taken to protect them from access by animals.

**Sec. 9-6. Same-Lids to be on and fastened.**

The lids or covers of all garbage and trash containers shall at all times be kept secure and fastened so that flies and other insects may not have access to the contents thereof. Such lids or covers shall only be removed while the containers are being filled or emptied as the case may be.

**Sec. 9-7. Same-Placing trash and garbage for collection; hours containers may be made available for collection; penalty.**

- (1) Trash and garbage containers shall be made available for collection by placing same:
  - (a) at such point as the collector may conveniently access and empty such container or containers; or,
  - (b) in an approved enclosure.
- (2) Trash and garbage containers not in an approved enclosure may not be located forward of the established building line on any property except between the hours of 5:00 PM on the day before a scheduled collection and 8:00 AM the day after the collection.
- (3) Except for trash or garbage containers in an approved enclosure, no owner, occupant, tenant or lessee shall permit any trash or garbage container to be located forward of the building line on any property at any time other than during the hours specified in this Section; failure to comply with the requirements of this provision shall be punishable by a fine as provided herein for each day of violation.

**Sec. 9-8. Same-Placing trash for collection, bundling, length of tree limbs.**

The container for trash shall be placed at the point found and designated by the proper agent of the city as the most accessible for collecting and removing. In the event trash is of such a nature that it cannot be put in the container, it shall be carefully placed in bundles or other suitable container under forty (40) pounds so it can be removed conveniently, and tree limbs, trunk and hedge cuttings shall not exceed four (4) feet in length.

**Sec. 9-9. Weekly removals from residences.**

The collection and removal of garbage and trash from houses, buildings and premises used for residential purposes shall be made in accordance with a schedule approved by City Council.

**Sec. 9-10. Removal charges.**

The fair and reasonable rate for each single family residence, business and commercial establishment shall be in accordance with a schedule of charges approved by City Council.

**Sec. 9-11 Weeds, brush and vegetation**

(a) It shall be unlawful for any person or entity owning or having supervision or control of any lot, tract, parcel of land or portion thereof, (hereinafter "Person in Control"), occupied or unoccupied, improved or unimproved, within the corporate limits of the city to permit grass, weeds, brush or other objectionable or unsightly vegetation to grow to a height greater than twelve inches (12") on such lot, tract or parcel of land within the corporate limits of the city, or in the area extending from the person's property line to the curb line adjacent to it, if there is a curb line, and if not, then within ten feet (10') outside of the property line.

(b) It shall be unlawful for any Person in Control of any lot, tract, parcel of land or portion thereof, occupied or unoccupied, improved or unimproved, within the corporate limits of the city to permit grass, weeds or any plant or vegetation to grow in, upon or across the sidewalk or street adjacent to the lot or property. Cultivated vegetation may be adjacent to the sidewalk when not in violation of other city ordinances. Special concern must be afforded corner lots to prevent violation of other city ordinances regarding view obstruction.

(c) The fact that a person is a present occupant of the premises shall be prima facie evidence that the person has supervision and control of the property. If the premises are unoccupied, the fact that a person is listed by the current tax roll as the owner shall be prima facie evidence that the person is the owner and has supervision and control of the lot.

(d) All vegetation not regularly cultivated and which exceeds twelve inches (12") in height shall be presumed to be objectionable and unsightly and is hereby declared a nuisance. Regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street, alley or easement.

**Sec. 9-12 Accumulation of Objectionable, Unsightly, Unsanitary or Unwholesome Matter on Property.**

It shall be unlawful for any Person in Control (including a building contractor) of any lot, tract, parcel of land or portion thereof, whether occupied or unoccupied, improved or unimproved, within the corporate limits of the city, to maintain such premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or other disease-carrying pests, or to permit the accumulation of the following to occur, exist on, or emanate from, any such lot, tract or parcel of land within one hundred fifty feet (150') of any property line, or in the area extending from the person's property line to the curb line adjacent to it, if there be a curb line, and if not, then within ten feet (10') outside of the property line, and such conditions are hereby declared to be a nuisance:

(a) Stagnant water or any collection or accumulation of water that may allow the breeding of insects, any open drain, sewer, or cesspool, or any exposed animal carcass, carrion, filth or other impure or unwholesome matter;

(b) Any waste products, offal, polluting material, spent chemicals, liquors, brines, garbage, rubbish, refuse, sewage, used tires, or other waste of any kind that is stored, deposited or disposed of in a manner that may cause the pollution of the surrounding land, the contamination of groundwater or surface water or the breeding of insects or rodents; or

(c) Any waste products, offal, polluting material, spent chemicals, liquors, brines, garbage, rubbish, refuse, sewage, used tires, or other waste of any kind that is accumulating in, being discharged into or flowing into or on any gutter, street, sidewalk, parkway, driveway, curb, alley or any other public property of the city, or in or on any lot, vacant or occupied, driveway or other private property in the city.

**Sec. 9-13 Inspection of premises**

The Chief of Police of the city or his designee may inspect or cause to be inspected any property that is or may be in an unsanitary condition. If the Person in Control of the property does not allow such inspection, an administrative search warrant may be sought from a court of competent jurisdiction.

**Sec. 9-14 Remediation required**

It shall be the duty of any Person in Control of any real property, as provided above, to cut and remove all such weeds, brush, and other objectionable or unsightly matter listed in Sections 9-11 and 9-12, and to take any other action necessary to comply with this Chapter as often as may be necessary to comply with this Chapter.

**Sec. 9-15 Failure to comply; notice; future violations**

(a) Notice required. In the event that the Person in Control of any lot, tract, parcel of land or portion thereof shall fail to comply with the requirements of Sections 9-11 or 9-12 of this Chapter notice of such violation shall be given to the Owner of the Property as recorded in the Appraisal District Records ("Owner") prior to exercising the authority granted in Section 9-16.

(b) Service of notice. Such notice shall be given:

(1) Personally to the Owner in writing or by personal contact utilizing body camera or other electronic recording media sufficient to be submitted as evidence in court. If such equipment is not available when a notice is provided, the sworn affidavit of the person giving such notice of a violation shall be deemed sufficient evidence of the giving of such notice; or

(2) (A) By letter addressed to the Owner at the Owner's address as recorded in the appraisal district records; and

(B) Posting the notice on or near the front door of each building on the property to which the violation relates, or posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates,

(c) Contents of notice. The notice of violation shall at a minimum contain the following:

(1) The name of the owner, if known, of the premises proposed to be entered upon by the city;

(2) The address or legal description of the premises proposed to be entered upon by the city;

(3) The offending conditions existing on the lot, tract or parcel of land;

(4) A statement that the recipient has ten (10) days from the date of notice to correct the violation, that if he/she fails to do so, the city will enter upon the premises and remedy the same, and that the city is entitled to attach a lien to the property to secure payment for the services rendered; and

(5) A statement that the recipient is entitled to an administrative review in accordance with Section 9-17.

(d) Annual notice. In a Notice of Violation under this section, the City shall also notify the Owner of the property that if the Owner commits another violation of the same kind or nature that poses a danger to the public health and safety on or before the first anniversary of the date of the notice, the City without further notice may correct the violation at the owner's expense and assess the expense against the property in accordance with this Chapter.

If the city receives notice of a change of ownership of the property during the one (1) year period, notice of a violation must be sent to such new Owner in compliance with subsection (b)(2) of this section. If the City does not receive notice of a change in ownership, the City may abate any nuisance of the same kind and nature that poses a danger to the public health and safety that occurs on the property covered by the annual notice, without further notice, and thereafter, assess expenses to the owner in accordance with this Chapter.

(e) Additional Authority for Abatement of Dangerous Weeds. Notwithstanding the foregoing provisions, the City may abate, without prior notice, any weeds that have grown to a height of 48 inches and are an immediate danger to the health, life or safety of any person. In the event that the city abates weeds pursuant to this subsection, the notice following such abatement and hearing requirements set forth in Chapter 342 of the Texas Health and Safety Code for such abatement shall govern.

(f) Owner-requested work. In the event the owner of any such property requests that the city do such work as is necessary in order to abate or prevent a violation of this chapter, then such request will negate the requirement for notification of violation by the city, and the city will have the same remedies as hereinafter set forth.

(g) City May Perform Work. If the Owner of the property does not take action that brings the

property into compliance with this Chapter within ten (10) days after receipt of the notice described above, the city may go onto the property and do the work or make the improvements necessary to correct the violation.

**Sec. 9-16 Expenses charged to owner**

The expenses incurred by the city in correcting the condition of such property, including the cost of providing notice, shall be paid by the city and charged to the Owner of the property. In the event the Owner fails or refuses to pay such expenses within thirty (30) days after the first day of the month following the month in which the work was done, the Mayor or his designee shall file a statement of expenses with the county clerk of the county in which the property is located. The statement of expenses shall include the name of the owner, if known, and the legal description of the property. Upon the filing of such statement, the city shall have a privileged lien against the property to secure payment of such expense, second only to tax liens and liens for street improvements. Such amount shall accrue interest at the rate of ten percent (10%) per annum from the date of payment by the city until paid by the owner. The city may bring a suit for foreclosure of the lien to recover the expenditures and interest due. The statement of expenses or certified copy of the statement is prima facie proof of the expenses incurred by the city in doing the work or making the improvements.

**Sec. 9-17 Administrative Review.**

- (1) Any person or entity receiving an abatement notice under this Chapter shall have the right to request and administrative review of the abatement by filing a written request for review with the Mayor.
- (2) Such request for review shall be submitted to the Chief of Police within seven (7) days of receipt of the notice of violation.
- (3) The written request for review shall assert any legal defense as to why the city should not proceed with abatement and attachment of lien to the property as provided in this division.
- (4) Upon receipt of a request for review by the Mayor he shall delay the abatement until after the hearing. All files related to the property shall be provided to the Mayor for the Administrative Review.
- (5) Within 5 business days of receipt of the request for review, the Mayor shall review all information related to the condition of the property and issue a decision on whether the abatement is proper under this Chapter. The decision shall be in writing and provided to the person or entity requesting the review as well as the director of neighborhood services.
- (6) If the abatement decision is upheld, the conditions on the property must be abated by the Owner within 3 calendar days of the notice of determination, or the city may proceed with the abatement of the property pursuant to this Chapter.

**Sec. 9-18 Cumulative Remedies**

The remedies contained in the Chapter are cumulative of and in addition to each other. The selection of one remedy does not preclude the utilization of another remedy including criminal charges.

**Sec. 9-19 Penalty.**

Notwithstanding any other remedy set forth in this Chapter, any person or entity who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined an amount not to exceed \$2,000 per violation. Each date that a violation continues shall constitute a separate offense.”

## Chapter 10

### HEALTH AND SANITATION

#### **Sec. 10-1. Adoption of laws, regulations.**

Minimum health and sanitation standards, as provided in Ch. 341 of Title 5, Subtitle A, of the Texas Health and Safety Code, "Minimum Standards of Sanitation and Health Protection Measures," as the same may from time-to-time be modified or amended, are hereby adopted and shall be enforced in the City of Valley Mills; should any health or sanitation standards or regulations be adopted or enforced by any governmental agency within Bosque County, Texas, including any State health authority, that exceed or extend the standards hereby adopted, then such stricter or broader standards or regulations shall be enforced in the City of Valley Mills.

#### **Sec. 10-2. Enforcement.**

The Mayor or any member of City Council, acting individually; any board or commission by majority vote; the Building Inspector; or any other City official, board or person authorized to do so by the City Council, may notify the Chief of Police of any alleged violation of this Chapter. Upon receipt of any such notice of alleged violation, the Chief of Police shall cause such matter to be investigated and, if probable cause to believe a violation of this section has occurred or exists, may file a criminal complaint with the Judge of the Municipal Court based upon such alleged violation of City Ordinances.

Chapter 11

**JUNK**

Art. I. In General,  
Art. II. Motor vehicle

§§ 11-1-11-9  
§§ 11-20-11-37

**ARTICLE I. IN GENERAL**

**(RESERVED)**

**Secs. 11-1-11-19. Reserved.**

**ARTICLE II. MOTOR VEHICLES**

**Sec. 11-20. Definition.**

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

*Junk motor vehicle:* Any motor vehicle, as such is defined by State Law, which is inoperative and which does not have lawfully affixed thereto both an unexpired license plate or plates and a valid motor vehicle safety inspection sticker, and which is wrecked, dismantled, partially dismantled, or discarded; except that the provisions hereof shall not apply to:

- (1) Any motor vehicle in operable condition specifically adapted or constructed for racing or operation on privately owned drag strips or raceways.
- (2) Any motor vehicle retained by the owner for antique collection purposes rather than for salvage or for transportation.
- (3) Any motor vehicle stored as the property of a member of the armed forces of the United States who is on active duty assignment.

**Sec. 11-21. Declared public nuisance, scope.**

The presence of any junked motor vehicle on any public property or private lot, tract, or parcel of land, or portion thereof, occupied or unoccupied, improved or unimproved, within the city, shall be deemed a public nuisance; and it shall be unlawful for any person to cause or maintain such a public nuisance by wrecking, dismantling, partially dismantling, or discarding any motor vehicle on the real property of another or to suffer, permit, or allow any junked motor vehicle to be parked, left, or maintained on his own real property; provided that this section shall not apply with regard to:

- (1) Any junked motor vehicle, or a part thereof, which is parked or stored within an enclosed building in a lawful manner where it is not visible from the street or any other public or private property.
- (2) Any junked motor vehicle, or part thereof, stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard.
- (3) Any junked motor vehicle, or part thereof, parked in an appropriate storage place or depository maintained at a location officially designated and in a manner approved by the city.

**Sec. 11-22. Notice to owner or occupant to abate nuisance on occupied premises-Form.**

Whenever any such public nuisance exists on occupied premises within the city in violation of section 11-21, the City Secretary shall order the owner of the premises, if in possession thereof, or the occupant of the premises whereon such public nuisance exists, to abate or remove the same. Such order shall:

- (1) Be in writing.
- (2) Specify the public nuisance and its location.
- (3) Specify the corrective measures required.
- (4) Provide for compliance within 10 days from service thereof.

**Sec. 11-23. Same-Service; removal of vehicle by police; request for trial.**

Such orders shall be served upon the owner or occupant of the premises whereupon such public nuisance exists by personal service or by certified or registered mail with a five (5) day return receipt requested. If the notice is returned undelivered by the United States post office, official action to abate said nuisance shall be continued to a date not less than ten (10) days from the return of such notice. If the owner or occupant of the premises fails or refuses to comply with the order of the City Administrator, within the ten (10) day period after notice thereof, as provided herein, the chief of police, shall take possession of such junked motor vehicle and remove it from the premises. However, if the owner or occupant of such premises so desires, he may, within such ten (10) day period after service of notice to abate the nuisance, request the clerk of the municipal court of the city, either in person or in writing, and without the requirements of bond, that a date and a time be set when he may appear before judge of the municipal court for a hearing to determine whether or not he is in violation of this article; and such hearing be set as provided in section 11-26.

**Sec. 11-24. Notice to owner to abate nuisance on unoccupied premises-Form.**

Whenever any such public nuisance exists on unoccupied premises within the city in violation of section 11-21 and the owner thereof can be found, the City Secretary, shall order the owner of the premises whereon such public nuisance exists, to abate or remove the same. Such order shall:

- (1) Be in writing.
- (5) Specify the public nuisance and its location.
- (6) Specify the corrective measures required.
- (7) Provide for compliance within ten days from service thereof.

**Sec. 11-25. Same-Service, removal of vehicle by police, request for trial.**

The order shall be served upon the owner of the premises by serving him in the same manner as set out in section 11-23 to his address as shown by the current tax rolls of the city. If the owner of the premises fails or refuses to comply with the order of the City Administrator, within the ten (10) day period after service thereof as provided herein, the chief of police, shall take possession of such junked motor vehicle and remove it from the premises. However, if the owner of the premises so desires, he may within such ten (10) day period after service of notice to abate the nuisance, request of the clerk of the municipal court of the city, either in person or in writing and without the requirement of bond, that a date and a time be set when he may appear before the judge of the municipal court for a hearing to determine whether or not he is in violation of this article and such hearing shall be set as provided in section 11-26.

**Sec. 11-26. Trial-Setting; filing complaint.**

Upon receiving a request for trial, made pursuant to section 11-24, the clerk of the municipal court shall set a date and a time for such trial on the court docket. The clerk of the municipal court shall notify the city attorney of the date and time of such hearing. The city attorney shall cause to be prepared, filed and served on the defendant, a written complaint charging that the owner or occupant of the premises, as the case may be, has violated this article. After service, such complaint shall be on file with the clerk of the municipal court not less than ten (10) days prior to the date of trial.

**Sec. 11-27. Same-Conducting; punishment; abatement of nuisance.**

The judge of the municipal court shall hear any case brought before said court, as set out herein, and shall determine whether the defendant is, in fact, in violation of this article. Upon a finding that the defendant is in violation of this article, said defendant shall be deemed guilty of a misdemeanor and subject to a fine in accordance with the penalty provision of this Code. The judge of said court shall further order such defendant to remove and abate said nuisance within the (10) days, the same being a reasonable time. If the defendant shall fail or refuse within said ten (10) days to abate or remove said nuisance, the judge of the municipal court shall issue an order directing the chief of police to have the same removed, and the chief of police shall take possession of the junked motor vehicle and remove it from the premises. Such order shall include a description of the vehicle and the correct identification number and license number if available at the site.

**Sec. 11-28. Removal with permission of owner or occupant.**

If, within ten (10) days after receipt of notice from the City Secretary, to abate the nuisance, as herein provided, the owner or occupant of the premises shall give his written permission to the City Secretary, for removal of the junked motor vehicle from the premises, the giving of such permission shall be considered compliance with the provisions of this article.

**Sec. 11-29. Removal from unoccupied premises by order of municipal court.**

If there is a junked motor vehicle, as herein defined, on premises that are unoccupied, and neither the owner of the premises nor the owner of such vehicle can be found and notified to remove the same, then, upon a showing of such facts to the judge of the municipal court, the court may issue an order directing the City Administrator to have the same removed, and the chief of police or his duly authorized agent shall take possession of such junked motor vehicle and remove it from the premises.

**Sec. 11-30. Evidence of abandonment.**

If a junked motor vehicle, as defined in this article, has been situated on the private property of another, without such person's permission, for a period of sixty (60) days or longer, this fact shall be prima facie evidence that the owner of such vehicle has abandoned the same.

**Sec. 11-31. Disposal of junked motor vehicle; administration.**

- (1) Junked motor vehicles shall be removed by the chief of police, or his duly authorized agent. A junked motor vehicle which has been removed under this article shall not be reconstructed or made operable. Within five (5) days after the date of removal, notice shall be given to the Texas Highway Department identifying the vehicle or part thereof so the department may cancel the certificate of title to the vehicle. Motor vehicles removed under this article shall be disposed of in accordance with State Law.
- (2) The administration of this article shall be executed by regularly salaried, full time employees of the city except that the removal of vehicles, or parts thereof, from property may be by any other duly authorized person.

**Sec. 11-32. Presumption of abandonment.**

Motor vehicles which shall remain unclaimed with the police department for sixty (60) days shall be conclusively presumed to be abandoned.

**Sec. 11-33. Sale-Authorized.**

All abandoned, stolen or recovered motor vehicles which shall remain with the police department for a period of sixty (60) days without being claimed or reclaimed by the owner whether known or unknown, may be sold or disposed of by the city at public auction.

**Sec. 11-34. Same-Notice.**

- (1) Thirty (30) days notice of the time and place of sale and a description list of the motor vehicles to be offered for sale, shall be posted at the county courthouse door and at any regular entrance to the city hall. The police department shall notify within ten (10) days after taking an abandoned motor vehicle into custody, the owner and all lien holders of record by registered or certified mail, return receipt requested. The notice shall describe the year, make, model and serial number of the abandoned motor vehicle; set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle within twenty (20) days after the date of the notice upon payment of all towing, preservation and storage charges, resulting from placing the vehicle in custody and state of failure of the owner of lien holders to exercise their right to reclaim the vehicle within the time provided shall be deemed a waiver by the owner and all lien holders of all right, title and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.
- (2) If the identity of the last registered owner cannot be determined, or if the registration contains no address for the owner, or if it is impossible with reasonable certainty to find the identity and address of all lien holders, notice by one publication in one newspaper of general circulation in the city shall be sufficient to meet all the requirements of notice. Such notice by publication can contain multiple listings of abandoned vehicles. Any such notice shall be within the time requirements prescribed for notice by registered or certified mail and shall have the same contents required for a notice by registered or certified mail.

**Sec. 11-35. Same-Cash, to highest bidder.**

All sales made pursuant to the provisions of this article shall be made for cash at a public auction to the highest bidder for each piece of property.

**Sec. 11-36. Same-Conducted by City Administrator or his authorized representative.**

The sale of motor vehicles made pursuant to this article shall be conducted by the City Administrator or his authorized representative.

**Sec. 11-37. Same-Proceeds from the sale.**

From the proceeds of the sale of an abandoned motor vehicle, the City Administrator shall reimburse the city through the general fund for the expenses of the auction, the costs of towing, preserving and storing the motor vehicle and all notice and publications costs. Any remainder from the proceeds of the sale of a motor vehicle shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in a special fund which shall remain available for the payment of auction, towing, preserving, storage and all notice and publication costs which result from placing other abandoned vehicles in custody, whenever the proceeds from a sale of such other abandoned motor vehicle is insufficient to meet these expenses and costs.

**OCCUPATIONAL LICENSES AND REGULATIONS**

**ARTICLE I. GENERAL**

**Sec. 12-1. Definitions.**

**Itinerant Vendor.** Any person who sells or offers for sale merchandise or services from a vehicle, tent, trailer, or other place which is not a permanent building or structure, for any period of time, or from a permanent building or structure for a period which is forty-five (45) days or less. It shall not include (1) Sales of goods, wares and merchandise donated by the owners thereof, the proceeds of which are to be used and applied to some charitable, religious or philanthropic purpose, (2) Sales of goods, wares and merchandise by sheriffs, constables or other public officers, or to bona fide assignees or auctioneers, or trustees or receivers regularly appointed, (3) Sales of goods, wares or merchandise by the agent or representative of a jobber or wholesaler calling on customers, (4) vendors that drive on the streets using signs or sounds to attract customers and that only make sales when approached by such customers (such as ice cream sales) or (5) Sales of goods, wares or merchandise to a person or business at a specific location due to an order placed by telephone or online, or at the express invitation of the person that owns or is in control of the premises.

**Mobile Vendor.** An itinerant vendor that sells or offers for sale merchandise or services from a vehicle.

**Peddler.** Any person who engages in commercial activities within the corporate limits of the city by carrying goods or merchandise and selling or offering for sale for immediate delivery such goods or merchandise from house to house, business to business or upon public property.

**Solicitor.** Any person who solicits or attempts to solicit, from house to house, business to business or upon public property, funds or orders for services, commercial goods, wares, merchandise, subscriptions or publications to be delivered at a future date or time.

**ARTICLE II. PEDDLERS AND SOLICITORS**

**Sec. 12.-2 License Required.**

No person shall solicit orders for the sale of merchandise or other thing of value or peddle merchandise or other thing of value upon the premises of a private residence in the City without having obtained a current Peddler/Solicitor License from the Mayor, City Secretary, or the Chief of Police in compliance with this Chapter.

The following are excluded from the license and fee provisions:

- (1) The delivery of orders placed by telephone or online, or soliciting to sell merchandise at a specific residence upon the express invitation of the person that owns or is in control of such residence;
- (2) Peddlers that drive on the streets using signs or sounds to attract customers and that only make sales when approached by such customers (such as ice cream sales);
- (3) Solicitation or sale by a peddler that is already licensed by the state to engage in such activity, such as an insurance salesman\*;
- (4) Charitable nonprofit organizations;
- (5) Political speech;
- (6) Religious proselytizing or distribution of religious literature; or
- (7) Canvassers who attempt only to distribute handbills or to solicit political support or to determine opinions or sentiments.

**Sec. 12-3. Peddler/Solicitor License Application and Fees.**

- (1) The Peddler/Solicitor license fee shall be \$25.00 for one day and \$50.00 for up to seven consecutive days to cover the cost of processing the License application and following up for compliance. An additional fee shall be collected from any person employing two (2) or more persons for the purpose of performing such activities.
- (2) Any person who is a Valley Mills resident that pays a Valley Mills Water Bill can obtain an application for the permit and be exempt from the fee requirement but must still obtain a permit and comply with all other permit requirements. The water bill account must be current and not behind in payments.

- (3) \*Securities Services Contractors as defined in the Texas Occupations Code, such as alarm service sales persons, are exempt from the fee requirement but must still obtain a license and comply with all other licensing requirements.

**Sec. 12-4. License Period, Denial, Revocation and Appeal.**

- (1) The Peddler/Solicitor License required herein shall be for a period of one day or seven consecutive days and shall be personal to the applicant and any approved employees of the applicant.
- (2) Each person approved under the permit shall each be issued a license which are not transferrable. Each license holder shall have the license in his or her possession at all times when performing activities described herein.
- (3) The City shall notify the applicant or Licensee in writing of the denial or revocation of a license. The applicant or licensee shall have a right to appeal the denial or revocation of a Peddler/Solicitor License to the City Council upon receipt of written notice of the denial or revocation.

**Sec. 12-5. General Restrictions.**

- (1) **No soliciting signs.** It shall be unlawful for any person while peddling or soliciting to remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "no soliciting" or "no solicitors" or similar wording, and which is clearly visible to the peddler or solicitor.
- (2) **Hours allowed.** It shall be unlawful for any person while peddling or soliciting to enter upon the property of another except between the hours beginning at 8:00 a.m. and ending at sunset, except upon the express prior invitation from the resident or occupant of the dwelling.

**ARTICLE III. ITINERANT AND MOBILE VENDORS**

**Sec. 12-6. License Required.**

It shall be unlawful for any itinerant vendor, including a mobile vendor as defined herein, or his or her agent, employee, servant or representative, to sell, offer or exhibit for the purpose of taking orders for sale thereof, any goods, wares, services or merchandise in the city without having obtained a current Itinerant Vendor License from the Mayor, City Secretary, or the Chief of Police in compliance with this Chapter.

**Sec. 12-7. Itinerant Vendor License Application and fees.**

Applicants for an Itinerant Vendor License under this Chapter shall make application to the Mayor, City Secretary, or the Chief of Police upon forms to be furnished at City Hall.

- (1) Each application must include the following information:
  - (A) Full name and all information contained on drivers' license of the applicant and each agent or employee working under the License.
  - (B) Permanent home address and present local address of the applicant.
  - (C) Name and home office address of applicant's employer.
  - (D) If the applicant owns or uses a motor vehicle in connection with the business, a description of such motor vehicle and the license number of same.
  - (E) A brief description of the merchandise or services to be sold.
  - (F) A site plan to be drawn by the applicant, not to scale, which need only show the location to be used by itinerant vendor and to be made the basis of the License.
  - (G) Proposed duration of temporary sales operation.
  - (H) If selling a product from a set location, the applicant must have written permission from the owner of the land or building where the sales are to take place. Any use of parking, trash, restroom or other business amenities must be approved in writing by the owner of the land or building where the sales are to take place.

If selling a product similar to those sold by non- itinerant fixed location businesses within 100 feet of such business' property line you must have written permission from that business.

- (I) A copy of the applicant's Texas limited sales and use tax License.
- (J) If the application is for an itinerant or mobile food vendor, a copy of a valid food establishment license from the State in which the business is to be conducted.

**(2) Application Processing fee.**

- (A) The fee for the License required under this article shall be \$25.00 for one day and \$50.00 for up to seven days to cover the cost of processing any License application and following up for compliance.
- (B) The following shall be exempt from the License fee requirement herein, but must still comply with all other registration and licensing requirements:
  - (i) Any person who has a fixed place of business within the County and has had such business for a period of one (1) year prior to the application for the License.
  - (ii) Charitable causes (i.e., fundraising activities by local schools, churches and civic associations).

**Section 12-8 License Period, Denial, Revocation and Appeal.**

- (1) The License required herein shall be for a period of one day or seven consecutive days.
- (2) The License shall be applicable to one business location and is not transferrable.
- (3) Any application for an Itinerant Vendor License may be denied or a previously issued License revoked for any of the following reasons:
  - (A) Any misrepresentation or false statement contained in the application for License.
  - (B) A violation of any of the provisions of this chapter.
  - (C) The proposed operation does not comply with federal or state law or City ordinance, including zoning restrictions.
- (4) The City shall notify the applicant or Licensee in writing of the denial or revocation of a license. The applicant or licensee shall have a right to appeal the denial or revocation of an Itinerant Vendor License to the City Council upon receipt of written notice of the denial or revocation.
- (5) Each License issued under this article shall remain in force and effect for no longer than the period stated on the License so long as the business for which the same is procured shall be continuously conducted within the city. Provided, however, such period of duration shall in no event exceed the applicable 1 day or 7 consecutive day period from the date of issuance of the License.

**12-9 General Restrictions.**

- (1) Every itinerant vendor who has secured a License under the authority of this chapter shall prominently display the license at all times in a conspicuous place upon the premises of said fixed business. If the itinerant vendor is also a food establishment, a copy of the Food Establishment Permit issued by the State shall also be displayed.
- (2) Vendor must provide parking spaces, which need not be paved, sufficient in number to accommodate the number of automobiles being reasonably expected to be parked at any one time taking into consideration the type, size and quantity of merchandise to be offered for sale, and in addition to those parking spaces required under the zoning ordinance for existing businesses.
- (3) Blocking access to any property or a driveway is prohibited.
- (4) Vendor must provide adequate trash containers for the proposed use.
- (5) Vendor must report and/or remit all applicable sales tax.

**ARTICLE IV.**

**Sec. 12-10. Penalty.**

Any person or entity who violates any of the provisions of this Chapter shall be guilty of a misdemeanor and upon conviction thereof, shall be fined an amount not to exceed \$500.00 per violation. Each date that a violation continues shall constitute a separate offense.”

Chapter 13

**OFFENSES AND MISCELLANEOUS PROVISIONS**

**Sec. 13-1. Mutual law enforcement assistance-Assignment of police of this city authorized.**

Pursuant to the laws of the State of Texas, the chief of police is authorized to assign the regularly employed law enforcement personnel of his department to assist any other county or municipality in this state, when a state of civil emergency in such county or municipality has been declared by proper authority, upon request of such proper authority, and when, in the opinion of such proper authority, a need exists in such other county or municipality, its inhabitants, and the visitors, thereto, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat thereof by three (3) or more persons acting together or without lawful authority, or during time of natural disaster or man-made calamity.

**Sec. 13-2. Same-Other peace officers as city police when assigned.**

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

**Sec. 13-3. Same-Prerequisites of police continue for city police when assigned.**

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

**Sec. 14-4. Same-Reimbursement of other governmental body.**

When any law enforcement officer is assigned to this city from another county or city under the circumstances described above, and upon request of the proper authority of this city, this city will, upon proper request, reimburse the county or city furnishing the services of such law enforcement office for his actual expenses of travel, food, lodging, and for such cost or damage to equipment and clothing resulting from the services of such law enforcement officer in this city and for which the county or city where he is regularly employed has paid.

**Sec. 13-5. Peeping, eavesdropping, spying.**

It shall be unlawful for any person, without prior consent of the owner or occupant thereof, to window peep, spy upon or eavesdrop at or on any private residence, hotel, tourist court, apartment

or trailer house, whether such private residence, hotel, tourist court, apartment or trailer house is occupied by people or not; and it shall be no defense that such window peeper, eaves dropper or spyer was not trespassing upon private property at the time of such window peeping, eavesdropping or spying.

#### **Sec. 13-6. Trespass.**

- (1) *Private property.* It shall be unlawful for any person to knowingly go or trespass upon any private property in the city for any purpose, not otherwise authorized by law, without the consent of the owner of such premises.
- (2) *Commercial property.* It shall be unlawful for any person to go or trespass upon the private property of any other person in the city between the hours of seven-thirty (7:30) p.m. and seven-thirty (7:30) a.m., without the knowledge and consent of the owners of such property; provided, if such property is business or commercial property, it shall be lawful to go upon such property if the business operated on such property is open for the purpose of such business.

#### **Sec. 13-7. Noise-Prohibited generally.**

The creation of any unreasonably loud, disturbing and unnecessary noises in the city is prohibited. Noises of such character, intensity and duration as are reasonably calculated to cause material distress, discomfort or injury to persons of ordinary sensibilities, or to be detrimental to the life or health of any ordinary reasonable person are prohibited.

#### **Sec. 13-8. Same-Enumeration.**

The following acts, among others, are declared to be loud, disturbing and unnecessary noises in violation of this Code; provided, however, such enumeration shall not be construed to be exclusive of other noises:

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any unnecessary and unreasonable period of time.
- (2) The playing of any radio, phonograph or any musical instrument in such manner, or with such volume, particularly during the hours between eleven (11) p.m. and seven (7) a.m. as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling or other type of residence in the vicinity. No stationary loudspeaker or amplifier shall be operated on any weekday between the hours of eleven (11) p.m. and seven (7) a.m., and no such stationary loudspeaker or amplifier shall be operated at any time on Sunday between the hours of seven (7) a.m. and one (1) p.m. This provision shall not apply to church bells or chimes.
- (3) The use of any automobile, motorcycle, streetcar or vehicle so out of repair, so loaded or operated in such manner as to create loud or unnecessary noises such as spinning or squealing tires, grating, grinding, rattling or other noise.
- (4) The blowing of any steam whistle attached to any stationary boiler except to give notice of the time to begin or stop work or as a warning of danger.
- (5) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine, motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) The use of any mechanical device operated by compressed air, except pneumatic drills, unless the noise thereby created is effectively muffled and reduced.
- (7) The erection (including excavation), demolition, alteration or repair of any building in a residential or business district other than between the hours of seven (7) a.m. and six (6) p.m. on weekdays, except in case of urgent necessity in the interest of public safety, and then only

with a permit from the City Administrator, which permit may be renewed for a period of three (3) days or less while the emergency continues.

- (8) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (9) The creation of a loud and excessive noise in connection with the loading or unloading of any vehicle or the opening and destruction of bales, boxes, crates and containers.
- (10) The sounding of any bell or gong attached to any building or premises which is reasonably calculated to disturb a person of ordinary disposition if such person were in the vicinity thereof.
- (11) The shouting and crying of peddlers, hawkers and vendors which disturbs the quiet and peace of the neighborhood.
- (12) The use of any drum, loudspeaker or other instrument or device for the purpose of attracting attention by creation of noise to any performance, show or sale of merchandise.
- (13) The use of loudspeakers or amplifiers on trucks or other vehicles, except where specific license is granted by the chief of police.
- (14) The keeping of any animal or bird which by causing frequent or long continued noise shall disturb the comfort and repose of any person of ordinary sensibilities in the immediate vicinity.

**Sec. 13-9. Abandoned airtight containers.**

It shall be unlawful for any person to place or permit to remain outside any building, dwelling or other structure or within any warehouse or storage room or any unoccupied or abandoned dwelling, building or other structure, under such circumstances as to be accessible to children, any icebox, refrigerator or other similar airtight or semi-airtight container which has a capacity of one and one-half (1 ½) cubic feet or more, and an opening fifty (50) square inches or more, and which has a door or lid equipped with a latch or other fastening device capable of securing such door or lid shut unless such container shall be adequately secured from access by children with a key or combination lock.

**Sec. 13-10. Sleeping in public place.**

It shall be unlawful for any person to sleep or lounge in any street, alley, highway, square, sidewalk or other public place.

**Sec. 13-11. Posting signs, etc., on public property.**

It shall be unlawful for any person to paste or paint any sign, picture, character or other advertisement upon any sidewalk, pavement, curbstone, public bridge, public building or other public property without permission of the City Council.

**Sec. 14-12. Damaging public property.**

It shall be unlawful for any person to break, deface, damage or destroy any public property of any kind or character, including highway signs, street marker signs, benches, playground apparatus or any other property within or belonging to the city.

**Sec. 13-13. Firearms-Discharging prohibited.**

It shall be unlawful for any person to fire or discharge any gun, pistol, rifle or other firearm of any description within the city.

**Sec. 13-14. Same-Exceptions.**

Section 13-16 shall not apply when such firing is done by any peace officer in the discharge of his duty as such; or by any person in the necessary and lawful protection of one's person, premises or property, unless such firing is recklessly or negligently done; nor shall such section apply to discharging firearms in a shooting gallery or gunsmith's establishment when such shooting gallery or gunsmith's establishment is property fitted and arranged for the purpose so that no danger arises therefrom; provided, no shotgun of any character, nor pistol or rifle of larger than twenty-two (22) caliber shall be used in any shooting gallery, nor shall the exception in the gunsmith's establishment apply except when done in necessary repair of firearms.

**Sec. 13-15. Air guns.**

It shall be unlawful for any person to shoot or discharge any air gun or air rifle into, on or across any public street, avenue, alley or highway, or in any public place whatsoever. The terms "air gun" and "air rifle," means any instrument or weapon which is commonly known as an air gun or air rifle, and which propels a bullet or other hard pellet with a carrying force as much as twenty- five (25) yards.

**Sec. 13-16. Prohibition or limitations on the use of certain types of conveyances.**

- (1) It shall be unlawful to operate Go-peds or similar motorized vehicles which are not street legal on the streets, alleys and sidewalks of the city.
- (2) No person shall drive or operate a bicycle, scooter, roller skates, skateboard or any type of vehicle upon the sidewalk on either side of Avenue C between Third Street and Fifth Street in the City of Valley Mills, Texas.
- (3) No person on roller skates or riding in or by means of any coaster, skateboard, toy vehicle or similar device shall go upon the sidewalk of Avenue C between Third Street and Fifth Street in the City of Valley Mills, Texas.

**Sec. 13-17. Permitting and regulating the operation of golf carts on city streets.**

- (1) "Golf cart" shall mean a motorized vehicle (1) with no less than three wheels, (2) which has a normal maximum speed of twenty-five (25) miles per hour and (3) which is originally manufactured primarily for use on golf courses. This definition applies without regard to the seating or cargo-carrying configuration of such vehicle, except that it shall not include vehicles with saddle-type seats. This definition shall not include All-Terrain Vehicles (ATVs).
- (2) Except as provided in Section 3 of this ordinance, it shall be lawful to operate a golf cart on any road, street or highway within the limits of the City of Valley Mills, provided such vehicle is insured and has the following minimum equipment:
  - (a) headlamps and tail lamps,
  - (b) reflectors,
  - (c) parking brake,
  - (d) mirrors, and
  - (e) a slow-moving vehicle emblem.
- (3) Operation of a golf cart on any road, street or highway within the limits of the City of Valley Mills must be in full compliance with the Texas Transportation Code and all ordinances of the City of Valley Mills. Operation of a golf cart under this ordinance shall be prohibited:
  - (a) if the vehicle is not insured and equipped as provided in Section 2 of this ordinance;
  - (b) if the operator is a minor under the age of sixteen (16), is prohibited from operating a motor vehicle under the laws of the State of Texas or is intoxicated or otherwise impaired;
  - (c) on any road, street or highway with a speed limit of thirty-five (35) miles per hour or higher.
- (4) Whoever violates the provisions of this section shall be guilty of a Class C misdemeanor.

**Sec. 13-18. Parking prohibited in certain areas.**

- (1) Parking within the public right of way along the North side of Avenue C in the 700 block between 7th Street and 8th Street and on the South side of Avenue C in the 600 and 700 blocks between 6th Street and 8th Street, is hereby prohibited at all times.
- (2) To give proper notice of the prohibition hereby established, signs bearing the legend "No Parking At Any Time" or words of similar import shall be erected and maintained at appropriate intervals within the area designated in Sec. 1. Such signs shall be erected in accordance with the rules and regulations of the State of Texas Department of Transportation.

**Sec. 13-19. Tattoo or body piercing facility prohibited.**

- (1) The definitions set forth in Texas Health and Safety Code, title Z, Subtitle G, Ch. 142, Sec. 142.A01, are incorporated herein and adopted for the purposes of this section.
- (2) No person may conduct, operate or maintain a studio or other facility for tattooing or body piercing within the jurisdictional limits of the City of Valley Mills, Texas.

**Sec. 13-20. Illegal smoking products.**

- (1) The following definitions shall apply to this section:
  - (a) "Person" shall mean an individual, corporation, partnership, wholesaler,retailer or any licensed or unlicensed business.
  - (b) "Illegal Smoking Product" shall mean any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substances is marketed for the purpose of being smoked, which includes anyone or more of the following chemicals:
    - i. Salvia divinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;
    - ii. 2-[1R,3S]-3-hydroxycyclohexyl]-5-(2-methylcatan-2-yl) phenol (also known as CP47, 497) and homologues;
    - iii. (6aS, 10aS)-9-(hydroxymethyl)-6, 6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7, 10, (Oatetrahydrobenzol chloromethol) (also known as HE-211 or Dexanabinol);
    - iv. 1-Pentyl-3-(1-naphthoyl) indole (also known as JWH-O18);
    - v. Butyl-3-(1-naphthoyl) indole (also known as JWH-073); or
    - vi. 1-Pentyl-3-(4-methoxynaphthoyl) indole (also known as JWH-081).
    - vii. cannabicyclohexanol,
    - viii. HU-210
  - (c) "Ingestion Device" shall mean equipment, a product or material that is used or intended for use in ingesting, inhaling, or othenwise introducing an illegal smoking product into the human body, including:
    - i. a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;
    - ii. a water pipe;
    - iii. a carburetion tube or device;
    - iv. a smoking or carburetion mask;
    - v. a chamber Pipe;
    - vi. a carburetor pipe;
    - vii. an electric pipe
    - viii. an air-driven pipe;
    - ix. a chillum;
    - x. a bong; or
    - xi. an ice pipe or chiller.
- (2) It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.

- (3) It shall be unlawful for any person to use or possess with intent to use an ingestion device to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.
- (4) It shall be a defense to a violation of this section that any act described in this section is under and pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.
- (5) All ordinances of the City of Valley Mills in conflict with the provisions of this section shall be, and the same are hereby, repealed; provided, however, that all other provisions of said ordinances not in conflict herewith shall remain in full force and effect. Nothing contained herein shall be construed to conflict with the Texas Controlled Substances Act, or any other state and/or federal law governing the same.
- (6) If any provision, section, subsection, sentence, clause or phrase of this section, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid (or for any reason unenforceable), the validity of the remaining portions of this section or the application to such other persons or sets of circumstances shall not be affected hereby, it being the intent of the City Council of the City of Valley Mills, in adopting this section, that no portion hereof or provision contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion or provision.
- (7) Any person, firm or corporation violating any of the provisions or terms of this section shall be subject to a fine not to exceed the sum of Two Thousand Dollars (\$2,000.00) for each offense.

**Sec. 13-21. Authorizing the Valley Mills Volunteer Fire Department to seek reimbursement of safety and rescue responses.**

(a) Collection of Fees.

1. The city council hereby adopts the fees and charges set forth in Exhibit "A," attached hereto and incorporated herein by reference to be charged for the referenced services described therein. The city council authorizes the Fire Chief of the VMFD to assess the charges adopted by the city council by this ordinance, and/or actual expenses incurred by the city or the VMFD, to be billed against parties involved in motor vehicle accidents, hazardous waste or chemical spills, or other non fire suppression activities within the Valley Mills city limits, its extraterritorial jurisdiction, or to which the city or the VMFD responds with fire department or other emergency equipment and/or personnel. Those charges shall be billed as a debt to the party causing the event of a spill or dumping and/or the party transporting said hazardous, dangerous and/or injurious product. Fire suppression activities resulting from third party negligence may be billed against that third party. Fire suppression resulting from arson may be billed against the arsonist.
2. The Fire Chief, or his designee, shall bill and collect all fees and costs for fire prevention and protection services or other public safety and emergency services as referenced herein. The Fire Chief, or his designee, shall submit an invoice for all costs, fees, charges, and expenses related to providing such services, to include but not be limited to all actual expenses including costs of specialists, experts or other incidental costs incurred by the city or the VMFD as a result of the incident, to the customer, client, owner, designated agent, representative and/or insurance company who received, covered and/or otherwise benefited from these services.
3. Within thirty (30) days of the date of providing fire prevention and protection services or other public safety and emergency services, the Fire Chief, or his designee, shall submit an invoice for all costs, fees, charges and expenses related to providing such

services, to include but not be limited to all actual expenses including costs of equipment operations, cost of material utilized, costs of specialists, experts or other contract labor not in the full time employment of the city; overtime costs, and other incidental costs incurred by the city as a result of the incident, to the customer, client, owner, designated agent, representative and/or insurance company who received, covered and/or otherwise benefited from these services.

4. Any bills, fees or penalties, including but not limited to clean up costs, fees or expenses that are imposed by the city or the city fire department by any local, state or federal agency, related to the rendering of fire protection or prevention services or of other public safety and emergency services may be included in the billing or billed separately within thirty (30) days of receipt.

(b) Enforcement.

The city may enforce the provisions of this section by any action allowed by law for the collection of any amount that shall become due hereafter, including reasonable and necessary attorney fees, costs, and expenses in a court of competent jurisdiction.

## Chapter 14

### **PARKS AND RECREATION**

#### **Sec. 14-1. Commission-Created, membership.**

Under the provisions of laws applicable, there is created a park and recreation commission. This commission may be appointed by the City Council upon a determination of a need therefor.

The commission shall be composed of five (5) members who shall serve without pay.

The terms of office shall be for five (5) years or until their successors are appointed and qualified, except that the members of such commission first appointed shall be appointed for such terms that the term of one member shall expire annually thereafter. Vacancies in such commission occurring otherwise than by expiration of term, shall be filled by the City Council.

#### **Sec. 14-2. Same-Organization.**

Immediately after their appointment, the park and recreation commission shall meet and organize by electing one of its members chairman and such other officers as may be necessary. The commission shall have the power to adopt bylaws, rules and regulations for the proper conduct of public recreation and park affairs for the city.

#### **Sec. 14-3. Same-Powers and duties.**

The park and recreation commission shall provide, conduct, and supervise playgrounds, playfields and indoor recreation centers and other recreation areas and facilities owned or controlled by the city. It shall have the power to conduct any form of recreation or cultural activity that will employ the leisure time of the people in a constructive and wholesome manner. It may conduct such activities on properties under its own control or on other public properties with the consent of the authorities thereof.

#### **Sec. 14-4. Same - Finances.**

Annually the park and recreation commission shall submit a budget to the City Council for its approval. The City Council shall annually appropriate from the general revenues a sufficient sum of money to maintain and operate the public parks and recreation facilities under the control of the park and recreation commission.

The commission may also solicit and receive any gifts or bequests of money or other personal property or any donation to be applied, principal or income, for either temporary or permanent use for playgrounds or other recreational purposes. Any such gift or bequest to the city or the park and recreation commission of park or recreation properties shall be made contingent upon acceptance by the park and recreation commission, such acceptance to be indicated by formal action of said commission.

#### **Sec. 14-5. Same-Report.**

The park and recreation commission shall make an annual report to the City Council and such other reports as from time to time may be requested.

Chapter 15

**FLOOD PLAIN**

**ARTICLE I - STATUTORY AUTHORIZATION, FINDINGS OF FACT, PURPOSE AND METHODS**

**Sec. 15-1. STATUTORY AUTHORIZATION**

(1) The Legislature of the State of Texas has in the Flood Control Insurance Act, Texas Water Code, SEC. 16.315 delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the City Council of Valley Mills, Texas does ordain as follows:

**Sec. 15-2. FINDINGS OF FACT**

(1) The flood hazard areas of Valley Mills, Texas 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's 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.

**Sec. 15-3. STATEMENT OF PURPOSE**

(1) It is the purpose of this ordinance 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:

- a. Protect human life and health;
- b. Minimize expenditure of public money for costly flood control projects;
- c. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- d. Minimize prolonged business interruptions;
- e. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- f. 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
- g. Insure that potential buyers are notified that property is in a flood area.

**Sec. 15-4. METHODS OF REDUCING FLOOD LOSSES**

(1) In order to accomplish its purposes, this ordinance uses the following methods:

- a. 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;
- b. Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- c. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of flood waters;
- d. Control filling, grading, dredging and other development which may increase flood damage;
- e. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands.

**ARTICLE 2 - DEFINITIONS**

**Sec. 15-5** Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application.

**Sec. 15-6** As used herein:

- a. ALLUVIAL FAN FLOODING - means flooding occurring on the surface of an alluvial fan or similar landform which originates at the apex and is characterized by high-velocity flows; active processes of erosion, sediment transport, and deposition; and unpredictable flow paths.
- b. APEX - means a point on an alluvial fan or similar landform below which the flow path of the major stream that formed the fan becomes unpredictable and alluvial fan flooding can occur.
- c. APPURTENANT STRUCTURE-means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is incidental to the use of the principal structure
- d. AREA OF FUTURE CONDITIONS FLOOD HAZARD-means the land area that would be inundated by the 1-percent-annual chance (100 year) flood based on future conditions hydrology.
- e. AREA OF SHALLOW FLOODING - means a designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent chance or greater annual chance of flooding to an average depth of 1 to 3 feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
- f. AREA OF SPECIAL FLOOD HAZARD - is the land in the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. The area may be designated as Zone A on the Flood Hazard Boundary Map (FHBM). After detailed rate-making has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE or V.
- g. BASE FLOOD - means the flood having a 1 percent chance of being equaled or exceeded in any given year.
- h. BASE FLOOD ELEVATION (BFE)-The elevation shown on the Flood Insurance Rate Map (FIRM) and found in the accompanying Flood Insurance Study (FIS)

for Zones A, AE, AH, A1-A30, AR, V1-V30, or VE that indicates the water surface elevation resulting from the flood that has a 1% chance of equaling or exceeding that level in any given year - also called the Base Flood.

- i. BASEMENT - means any area of the building having its floor subgrade (below ground level) on all sides.
- j. BREAKAWAY WALL-means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.
- k. CRITICAL FEATURE - means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.
- l. DEVELOPMENT - means any man-made change to improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- m. ELEVATED BUILDING-means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.
- n. EXISTING CONSTRUCTION - means 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."
- o. EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.
- p. EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION - means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
- q. FLOOD OR FLOODING - means a general and temporary condition of partial or complete inundation of normally dry land areas from:
  - i. the overflow of inland or tidal waters.
  - ii. the unusual and rapid accumulation or runoff of surface waters from any source.
- r. FLOOD ELEVATION STUDY-means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

- s. FLOOD INSURANCE RATE MAP (FIRM) - means an official map of a community, on which the Federal Emergency Management Agency has delineated both the special flood hazard areas and the risk premium zones applicable to the community.
- t. FLOOD INSURANCE STUDY (FIS)-see Flood Elevation Study
- u. FLOODPLAIN OR FLOOD-PRONE AREA - means any land area susceptible to being inundated by water from any source (see definition of flooding).
- v. FLOODPLAIN MANAGEMENT - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works and floodplain management regulations.
- w. FLOODPLAIN MANAGEMENT REGULATIONS - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
- x. FLOOD PROTECTION SYSTEM - means those physical structural works for which funds have been authorized, appropriated, and expended and which have been constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a "special flood hazard" and the extent of the depths of associated flooding. Such a system typically includes hurricane tidal barriers, dams, reservoirs, levees or dikes. These specialized flood modifying works are those constructed in conformance with sound engineering standards.
- y. FLOOD PROOFING - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
- z. FLOODWAY-see Regulatory Floodway
- aa. FUNCTIONALLY DEPENDENT USE - means a use, which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, 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.
- bb. HIGHEST ADJACENT GRADE - means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- cc. HISTORIC STRUCTURE - means any structure that is:
  - i. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

- ii. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
  - iii. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
  - iv. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - 1. By an approved state program as determined by the Secretary of the Interior or;
    - 2. Directly by the Secretary of the Interior in states without approved programs.
- dd. LEVEE - means 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.
- ee. LEVEE SYSTEM - means a flood protection system which consists of a levee, or levees, and associated structures, such as closure and drainage devices, which are constructed and operated in accordance with sound engineering practices.
- ff. LOWEST FLOOR - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking or 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 SEC. 60.3 of the National Flood Insurance Program regulations.
- gg. MANUFACTURED HOME - means a structure transportable in one or more SEC.s, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle".
- hh. MANUFACTURED HOME PARK OR SUBDIVISION - means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.
- ii. MEAN SEA LEVEL - means, 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.
- jj. NEW CONSTRUCTION - means, for the purpose of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

- kk. NEW MANUFACTURED HOME PARK OR SUBDIVISION - means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.
- ll. RECREATIONAL VEHICLE - means a vehicle which is (i) built on a single chassis; (ii) 400 square feet or less when measured at the largest horizontal projections; (iii) designed to be self-propelled or permanently towable by a light duty truck; and (iv) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- mm. REGULATORY FLOODWAY - means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.
- nn. RIVERINE-means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
- oo. SPECIAL FLOOD HAZARD AREA-see Area of Special Flood Hazard
- pp. START OF CONSTRUCTION - (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- qq. STRUCTURE-means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
- rr. SUBSTANTIAL DAMAGE - means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- ss. SUBSTANTIAL IMPROVEMENT - means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "start of construction" of the improvement. This term includes structures which have

incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure."

tt. VARIANCE-means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see SEC. 60.6 of the National Flood Insurance Program regulations.)

uu. VIOLATION - means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in SEC. 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.

vv. WATER SURFACE ELEVATION - means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum, where specified), of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

### **ARTICLE 3 - GENERAL PROVISIONS**

#### **Sec. 15-7. LANDS TO WHICH THIS ORDINANCE APPLIES**

(1) The ordinance shall apply to all areas of special flood hazard with the jurisdiction of Valley Mills, Texas.

#### **Sec. 15-8. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD**

(1) The areas of special flood hazard identified by the Federal Emergency Management Agency in the current scientific and engineering report entitled, "The Flood Insurance Study (FIS) for McLennan County, Texas and Incorporated areas," dated September 26, 2008, with accompanying Flood Insurance Rate Maps (FIRM) dated September 26, 2008 and "The Flood Insurance Study (FIS) for Bosque County, Texas and Incorporated areas," dated January 6, 2011, with accompanying Flood Insurance Rate Maps (FIRM) dated January 6, 2011, and any revisions thereto are hereby adopted by reference and declared to be a part of this ordinance.

The City of Valley Mills floodplain map is available for viewing through FEMA's Map Service Center. The link directly to the Valley Mills floodplain map: <https://msc.fema.gov/portal/search?AddressQuery=valley%20mills%2C%20texas#searchresultsanchor>

#### **Sec. 15-9. ESTABLISHMENT OF DEVELOPMENT PERMIT**

(1) A Floodplain Development Permit shall be required for all development within the community to ensure conformance with the provisions of this ordinance.

#### **Sec. 15-10. COMPLIANCE**

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

#### **Sec. 15-11. ABROGATION AND GREATER RESTRICTIONS**

(1) This ordinance is not intended to repeal, abrogate, or impair any existing easements,

covenants, or deed restrictions. However, where this ordinance and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**Sec. 15-12. INTERPRETATION**

- (1) In the interpretation and application of this ordinance, all provisions shall be:
  - a. considered as minimum requirements;
  - b. liberally construed in favor of the
  - c. City Council; and
  - d. deemed neither to limit nor repeal any other powers granted under State statutes.

**Sec. 15-13. WARNING AND DISCLAIMER OR LIABILITY**

(1) The degree of flood protection required by this ordinance 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 ordinance 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 ordinance 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 ordinance or any administrative decision lawfully made hereunder.

**ARTICLE 4 - ADMINISTRATION**

**Sec. 15-14. DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR**

(1) The City Administrator is hereby appointed the Floodplain Administrator to administer and implement the provisions of this ordinance and other appropriate SEC.s of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

**Sec. 15-15. DUTIES & RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR**

- (1) Duties and responsibilities of the Floodplain Administrator shall include, but not be limited to, the following:
  - a. Maintain and hold open for public inspection all records pertaining to the provisions of this ordinance.
  - b. Review permit application to determine whether proposed construction or other development, including the placement of manufactured homes, will be reasonably safe from flooding.
  - c. Review, approve or deny all applications for development permits required by adoption of this ordinance.
  - d. Review permits for proposed development to assure that all necessary permits have been obtained from those Federal, State or local governmental agencies (including SEC. 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
  - e. Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Floodplain Administrator shall make the necessary interpretation.

**Sec. 15-16. PERMIT PROCEDURES**

- (1) Application for a Floodplain Development Permit shall be presented to the Floodplain

Administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, including the placement of manufactured homes, and the location of the foregoing in relation to areas of special flood hazard. Additionally, the following information is required:

- 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 this ordinance;
- 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 herewith.

(2) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this ordinance 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;

#### **Sec. 15-17. VARIANCE PROCEDURES**

(1) The appeal Board as established by the community shall hear and render judgment on requests for variances from the requirements of this ordinance.

(2) The Appeal Board shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this ordinance.

(3) Any person or persons aggrieved by the decision of the Appeal Board may appeal such decision in the courts of competent jurisdiction.

(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 Inventory of Historic Places, without regard to the procedures set forth in the remainder of this ordinance.

(6) Variances may be issued for new construction and substantial improvements to be erected on a lot of 1/2 acre or less in size contiguous to and surrounded by lots with existing

structures constructed below the base flood level, providing the relevant factors in SEC. C of this Article have been fully considered. As the lot size increases beyond the 1/2 acre, the technical justification required for issuing the variance increases.

(7) Upon consideration of the factors noted above and the intent of this ordinance, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this ordinance (Article 1, SEC. C).

(8) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

(9) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.

(10) 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,
  - i. showing a good and sufficient cause;
  - ii. a determination that failure to grant the variance would result in exceptional hardship to the applicant, and
  - iii. a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
- 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.

(11) 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

- i. the criteria outlined herein are met, and
- ii. 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.

## **ARTICLE 5 - PROVISIONS FOR FLOOD HAZARD REDUCTION**

### **Sec. 15-18. GENERAL STANDARDS**

(1) In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements.

- a. 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;
- b. All new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;
- c. All new construction or substantial improvements shall be constructed with materials resistant to flood damage;

- d. 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.
- e. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- f. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into flood waters; and,
- g. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**Sec. 15-19. STANDARDS FOR SUBDIVISION PROPOSALS**

(1) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with Article 1, SEC.s B, C, and D of this ordinance.

(2) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet Development Permit requirements of Article 3, SEC. C; Article 4, SEC. C; and the provisions of Article 5 of this ordinance.

(3) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.

(4) All subdivision proposals including the placement of manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

**Sec. 15-20. SEVERABILITY**

(1) If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

**Sec. 15-21. PENALTIES FOR NON COMPLIANCE**

(1) No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this court order and other applicable regulations. Violation of the provisions of this court order by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this court order or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the City Council from taking such other lawful action as is necessary to prevent or remedy any violation.

## Chapter 16

### PLANNING

#### **Sec. 16-1. Planning and zoning commission-created; membership.**

There is created and established for the city a planning and zoning commission which shall be composed of not more than nine (9) members. The members shall be resident citizens, taxpayers, and qualified voters of the city, all of whom shall be appointed by the City Council. The members of the planning and zoning commission shall serve for staggered terms of two (2) years. All vacancies shall be filled as provided for the original appointments and in the same manner. Members of the commission may be removed by the City Council after public hearing and for cause assigned in writing. The members of the commission shall serve without compensation.

#### **Sec. 16-2. Same-Organization; staff.**

The planning and zoning commission shall elect a chairman and vice-chairman from its membership and shall have the power to employ such qualified persons as may be necessary for proper conduct and undertaking of the commission and to pay for their services and other necessary expenses; provided, that the cost of such services and expenses do not exceed the amount appropriated by the City Council for the use of the commission. It shall also have the power to make rules, regulations and bylaws for its own government, which shall conform as nearly as possible with those governing the City Council, and same shall be subject to the approval by City Council. Such bylaws shall include, among other items, provisions for (a) regular and special meetings, open to the public; (b) records of its proceedings, to be open for inspection by the public; (c) reporting to the City Council and the public, from time to time and annually and (d) for the holding of public hearings on its recommendations.

#### **Sec. 16-3. Powers and duties.**

The planning and zoning commission shall have the powers and duties assigned by City Council or as otherwise provided in this Code.

## ARTICLE II.

### Conditional Use Permit (CUP OR SUP)

#### **Sec. 16 – 4. Conditional Use Permit (CUP or Special Use Permit).**

- (a) Required. No special use shall be established, operated or maintained except as authorized by a special use permit issued in accordance with the requirements of this section.
- (b) Issuance. A special use permit may be issued only for the special uses specified in this division, and only for the district where it is authorized. Unless for a home-based business, a special use permit may only be issued by the Zoning Board acting after a public hearing. In considering any application for a special use permit, the Zoning Board shall give due regard to the nature and condition of all adjacent land, uses, and structures. The Zoning Board may disapprove an application for a special use permit, or approve same subject to such requirements and conditions, in addition to the regulations of the district in which the particular use is located, as it may deem necessary for the protection of adjacent properties and the public interest.
- (c) Application. An application for a special use permit shall be made in writing in a form prescribed by the Zoning Board and approved by the City Council and shall be accompanied by such information as may be requested, including a site plan, if required, in order to properly review the proposed use. Such information may include but is not limited to site and building plans, drawings and elevations, and operational data. All applicants for a special use permit for a nonresidential use in a residential district shall provide the city with a signed letter from the Owner and/or Director verifying that the

proposed use will not be violating deed restrictions.

(d) Report by the City Inspector. The City Inspector shall visit the site of the proposed special use and the surrounding area and shall prepare findings to be delivered to the Zoning Board. A Certificate of Occupancy may be issued by the City Inspector at this time.

(e) Notice of public hearing before the Zoning Board.

(1) The Board shall hold a public hearing on each application for a special use permit.

(2) Written notice of such hearing shall be given to the owners of all real property located within 200 feet in all directions of the property that is the subject of the hearing, regardless of whether the neighboring property is within the city limits or ETJ. Notice shall be given not less than ten days prior to the date of the hearing either by personal service or by depositing a copy of the notice in the mail addressed to each owner at the owner's address shown on the last approved city tax roll, with postage paid.

(3) Such notice shall state the purpose, date, time and place of the hearing and shall contain a brief description of the proposed development, including its nature, scope and location. The notice shall also describe any variances the applicant has requested and shall state the location and times at which the applications and supporting documents are available for public inspection. The time and place of the public hearing to be held before the city council shall also be included if known at the time the notice is given and, if it is not known at such time, a telephone number shall be provided where information on the hearing before the city council will be available at a later date.

(4) Notice in the form of weather resistant signs provided by the city shall be posted. The sign shall state the purpose, date, time and place of the hearing before the Zoning Board, and shall contain a brief description of the proposed development. Signs placed on the property involved must be within 10 feet of any property line paralleling any established or proposed street, and must be visible from that street. Signs must be posted at least 10 days prior to hearing. All required signs shall remain on the property until final disposition of the matter by the city. The applicant must remove all signs required by this section within 24 hours of final disposition by the city. An affidavit of proof of posting shall be filed by the applicant with the city at or prior to the hearing, accompanied by legible photographs of the sign as-posted.

(5) Notice of the hearing must be published in the city's official newspaper 15 days prior to the hearing before the Board.

(f) Review and recommendation by the Zoning Board.

(1) The Board shall review the application for a special use permit to determine whether the proposed special use complies with each of the general criteria in section 16.4 and with each of the specific criteria in section 16.4 applicable to the proposed use, and shall make a separate finding thereon for each criterion.

(2) The Board shall not approve an application unless it finds that the proposed special use as presented or as modified by the Zoning Board complies with each of the general and applicable specific criteria.

(3) *The board shall make a written finding of its decision in accordance with Section 16.4.*

(4) *The board may condition its approval of an application on the applicant's adoption of specified changes, additions, limitations, safeguards or effective time periods*

*designed to ensure compliance with the criteria.*

*(5) The board shall not grant a special use permit unless it finds that the proposed special use complies with each of the applicable general and specific criteria; otherwise, it shall deny the application.*

Chapter 17

**STREETS AND SIDEWALKS**

Art. I In General, §§ 17-1-17-16  
Art. II Sidewalk, Curb and Gutter Construction, §§ 17-17-17-31

**ARTICLE I. IN GENERAL**

**Sec. 17-1. Obstructions and encroachments-Prohibited.**

It shall be unlawful for any person to erect, place, build, construct, or maintain any fence, gate, post, sign, building or other obstruction or encroachment upon any public street or any portion of a public street within the city, or to cause any of such things to be done. The enumeration of certain types of obstructions and encroachments shall not limit the scope and effect of this section, but the same shall be construed to prohibit and forbid every type and kind of obstruction or encroachment upon any public street or whatever nature or character. Nothing contained in this section shall authorize the prosecution of any person for obstructing or encroaching upon any street within the city where such obstruction or encroachment is permitted by some other provision of the ordinances of the city or the laws of the state; provided, it shall not be necessary in any complaint, action or proceeding under this section to negate this exception, but the same shall be proved by the defendant by way of defense.

**Sec. 17-2. Same-Compliance with notice.**

Any person who, after receiving notice from any officer of the city to remove from any of the public streets of the city, any showcase, window, fence or other obstruction of whatsoever character, shall fail or refuse to comply with such notice within ten (10) days thereafter, shall be fined as provided herein each day that such failure or refusal shall continue after the expiration of said ten (10) days.

**Sec. 17-3. Excavations-Permit required.**

Any person desiring to cut any hole, ditch or section into or through any paved street in the city the repairing of water, gas, or sewer lines or for any purpose whatever, shall first procure from the City Administrator a permit to do so.

**Sec. 17-4. Same-Protection devices required.**

Any person having charge of any public or private improvement in this city, who shall leave any hole, ditch or excavation in or adjoining any public square, street, sidewalk or other public place, without guarding, covering or fencing and placing lights at night on the same so as to protect persons and animals from danger by falling therein, shall be deemed guilty of a misdemeanor.

**Sec. 17-5. Same-Supervision, restoration required.**

Whenever, in the laying of any pipe or other apparatus for any gas or the erection of any poles for any electric light or telephone works, or for any other purpose, it shall be necessary to have any earth, gravel or other substances removed or any part of any pavement, sidewalk, street, alley, block or lot taken up, the same shall be done by the person constructing the same under the supervision of the engineer designated by the City Administrator. As soon as completed such street, alley, pavement, sidewalk or other place shall be replaced in as good condition as before removed or taken up.

**Sec. 17-6. Same-Restoration requirements.**

When any hole, ditch or section is cut into or through any paved street in the city for the purpose of repairing water, gas or sewer lines or for any other purpose whatever, immediately upon the

completion of the work necessitating the cutting of such hole, ditch or section, the person so doing shall, if the hole or ditch extends more than twelve (12) inches below the bottom base course of the pavement, refill the same to its entire depth, length and width with a concrete mixture of one part cement, six (6) parts sand and twelve (12) parts gravel or broken stone, which shall be thoroughly mixed, tamped and brought to an even surface at the bottom of the base. If such hole, ditch or section extends twelve (12) inches or less below the bottom of the base course of the pavement, such person shall refill the same to its entire depth, length and width with a concrete mixture of one part cement, three (3) parts sand and six (6) parts gravel or broken stone, which shall be thoroughly mixed, tamped and brought to an even surface at the bottom of the base and restored to its original condition. In all cases where the surface of the pavement on any of the streets in the city is cut into or through, the same shall be, immediately after completion of the work necessitating such hole, ditch or section to be made, replaced by the person so doing with the same type of pavement as that removed and the pavement restored to its original condition.

**Sec. 17-7-17-16. Reserved.**

**ARTICLE II. SIDEWALK, CURB AND GUTTER CONSTRUCTION**

**Sec. 17-17. Permits.**

Permits are required for the construction of sidewalks, curbs, gutters or driveways in the city. The application for such permits shall be made to the Building Inspector upon forms to be furnished by the city. The application shall be accompanied by an accurate drawing or sketch showing the plan of the proposed work and shall indicate such other information as may be required by the Building Inspector and shall be accompanied by the payment of the fee determined by City Council.

**Sec. 17-18. Compliance with article.**

All sidewalks, curbs and gutters, and the public portion of driveways, hereafter built in the city shall be built according to the following specifications and requirements of this article.

**Sec. 17-19. Conformance to line and grade.**

Sidewalks, curbs and gutters, and the public portions of driveways, shall conform to the line and grades as given by the engineer.

**Sec. 17-20. Sidewalk widths.**

Sidewalks shall be classed as number one and number two. Number one shall extend from the curb to the property line. Number two shall be four (4) feet in width.

**Sec. 17-21. Sidewalk Thickness and layers.**

Sidewalks shall be five (5) inches thick as follows: A one (1) inch layer of sand, gravel or cinders, a three and one-half (3 1/2) inch layer of concrete and a one-half (1/2) inch layer of cement mortar.

**Sec. 17-22. Slope of sidewalk and planting space.**

Sidewalks shall have a maximum slope of one-quarter (1/4) inch to one (1) foot toward the street. The planting space between the walk and the curb shall have a maximum slope of one-half (1/2) inch to one (1) foot toward the street.

**Sec. 17-23. Curb depth, width and slope.**

Curbs shall be twelve (12) inches deep. They shall be six (6) inches wide on top and seven and one-half (7 1/2) inches wide at the bottom, giving the face a slope of one (1) to twelve (12) with the back vertical.

**Sec. 17-24. Materials.**

The concrete in the core of the curb and sidewalk shall be made of one (1) part of Portland cement; three (3) parts of clean, coarse sand and six (6) parts of good gravel. No pit run gravel shall be used, except by special permission of the city, which permission shall be given after inspection of each separate batch of such gravel. In case pit run gravel is used, the mixture shall be one (1) part Portland cement to seven (7) parts of gravel.

The cement mortar topping shall be made of one (1) part of Portland cement to two (2) parts clean, coarse sand.

**Sec. 17-25. Joints-Kinds.**

The joints to be formed shall be two (2) kinds; namely, expansion joints and construction joints.

**Sec. 17-26. Same-Expansion.**

- (1) Expansion joints one-half (1/2) inch thick shall be placed at intervals of fifty (50) feet throughout the length of the walk, and at all places where the walks end against curbs. Expansion joints shall also be placed where the sidewalk line intersects another sidewalk and where sidewalks intersect driveways. When the sidewalk fills the space between the curb and a building or a wall, a one-half (1/2) inch expansion joint shall be placed between the sidewalk and the curb and between the sidewalk and the building or wall. Expansion joints in the curb shall be placed opposite the joints in the walk.
- (2) The joint filler shall consist of strips of premoulded bituminous material one-half (1/2) inch thick and of widths equal the thickness of the walk.
- (3) Satisfactory joints can be made by placing the joint material against a bulkhead and tamping the concrete against it. When the bulkhead is removed, the concrete can be placed and tamped against the other side of the material. Care must be taken to keep the filler at right angles to the center line of the walk and perpendicular to its surface.

**Sec. 17-27. Same-Construction.**

Construction joints shall be spaced so that the walk will be cut into separate rectangular slabs, no longer than eight (8) feet on any one side. They shall be made by placing metal division plates between the side forms. Care must be taken to get these joints at right angles to the surface of the walk perpendicular to its surface.

**Sec. 17-28. Same-Rounding edges.**

To prevent chipping, the edges of both expansion and construction joints must be slightly rounded with edgers or groovers.

**Sec. 17-29. Radii.**

The radius of the corners at alleys and on driveways shall be as set by the engineers.

The radius of the curb at street intersection shall be as set by the city.

**Sec. 17-30. Construction.**

- (1) Sidewalks shall be excavated five (5) inches and the foundation tamped. The layer of sand, gravel or cinders shall then be placed and tamped. The course of the one-half (1/2) inch topping shall then be laid before the concrete gets its final set.
  - (a) All concrete shall be mixed either on a good board platform, or in a box, or in a batch mixer. Mixing on the ground shall not be permitted. If the concrete is mixed by hand it shall be turned not less than three (3) times. In making the cement mortar the cement and sand shall be mixed dry, before adding water.
  - (b) When the work is on fill, the fill shall be made of good loam or clay containing no sticks or organic matter. The fill shall be made in layers of not more than six (6) inches and each layer wet and tamped.
  - (c) The contractor shall measure all gravel and sand in square boxes, the dimensions of which shall be satisfactory to the engineer.
  - (d) When the mixing is done by hand, the contractor shall use a bottomless box on a plank platform.

**Sec. 17-31. Cleaning up open space.**

When the work is completed, the contractor shall clean up the planting or open space between the curb and walk to the grade given in these specifications.

Chapter 18

**SUBDIVISIONS**

Art. I.	In General,	§§ 18-1-18-17
Art. II.	Procedure,	§§ 18-18-18-29
Art. III	Layout,	§§ 18-30-18-52
Art. IV	Improvements and Utilities in Urban Subdivisions,	§§ 18-52-18.71.
Art. V	Improvements and Utilities in Suburban Subdivisions,	§§ 18-72, 18-73

**ARTICLE I. IN GENERAL**

**SECTION 1.** Chapter 18 of the Code of Ordinances, City of Valley Mills entitled “SUBDIVISIONS,” is hereby repealed in its entirety and replaced to read as follows:

**“CHAPTER 18  
SUBDIVISIONS**

**ARTICLE I. GENERALLY**

**Sec. 18-1. Definitions.**

As used in this chapter, the following terms shall have the respective meanings ascribed to them:

*Commission:* The City of Valley Mills Planning and Zoning Commission.

*Plat:* The map, drawing or chart on which a subdivider’s plan of a subdivision is presented, which he submits for approval and a copy of which he intends to record in final form.

*Subdivision:* The division of any lot, tract or parcel of land into two (2) or more lots or sites for the purpose, whether immediate or future, of sale or of building development. It also includes re-subdivision of land or lots. Division of land in parcels of three (3) or more acres shall not be included in this definition of subdivision, unless any such division of three (3) or more acres includes the planning or development of a new street or access easement.

**Sec. 18-2 Compliance with chapter.**

No person shall create a subdivision of land within the corporate limits of the city or within its extraterritorial jurisdiction without complying with the provisions of this chapter. All plats and subdivisions of any such land shall conform to the rules and regulations herein set forth.

**Sec. 18-3 Rules and Regulations – Amendment.**

(1) The Commission may adopt rules of procedure to govern its actions and may make recommendations to the City Council regarding rules and regulations governing plats and subdivisions.

(2) The City Council may make future revisions or amendments to this ordinance with or without the recommendation of the Commission and without a public hearing.

**Sec. 18-4 Variance.**

Where literal enforcement of a provision of this Chapter will render subdivision of a tract of land impractical and will result in the loss of reasonable use of property, the Commission (or

City Council when acting as approving authority) shall have the authority to grant a variance from such provision. Plats approved by the Commission with a variance must be submitted to the City Council for review in the manner provided in Section 18-21 (2). If the Commission denies a requested variance, the property owner may appeal such decision to the City Council by filing a written appeal with the City Secretary within five business days of the denial.

**Sec. 18-5 Enforcement by Injunction.**

In addition to any other remedy provided by law, the City and its officers shall have the right to enjoin any violation of this Chapter by injunction issued by a court of competent jurisdiction.

**Secs. 18-6 – 18-17 Reserved.**

**ARTICLE II. SUBDIVISION AND PLATTING RULES**

**Sec. 18.-18. Plat Required.**

The owner of a tract of land located within the corporate limits or in the extraterritorial jurisdiction of the City who divides the tract into two or more parts to lay out a subdivision of the tract, including an addition to the City, to lay out suburban, building, or other lots, or to lay out streets, alleys, squares, parks or other parts of the tract intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to such streets, alleys, squares, parks, or other parts must have a plat of the subdivision prepared. A division of a tract under this subsection includes a division regardless of whether it is made by using a metes and bounds description in a deed of conveyance or in a contract for a deed, by using a contract of sale or other executory contract to convey, or by using any other method. A division of land under this subsection does not include a division of land into parts greater than three acres, where each part has access and no public improvement is being dedicated.

**Sec. 18-19. Plat Requirements.**

To be approved by the City a plat must consist of a drawing showing the location of the tract including existing boundary lines and acreage and the proposed subdivision of the land, and must:

- (1) describe the subdivision by metes and bounds;
- (2) locate the subdivision with respect to a corner of the survey or tract or an original corner of the original survey of which it is a part;
- (3) state the dimensions of the subdivision and of each street, alley, square, park, or other part of the tract intended to be dedicated to public use or for the use of the purchasers or owners of lots fronting on or adjacent to the street, alley, square, park or other part;
- (4) include: the date, subdivision title, scale and north point and show the existing boundary lines and acreage of the land to be subdivided;
- (5) indicate the names of adjoining subdivisions or the names of adjoining property owners together with the respective plat or deed references;
- (6) include the lines and names of all existing streets, alleys, easements or other public property serving the land and all proposed streets (whether private or to be dedicated), or other ways or easements including a statement of the purpose of easements to be dedicated;
- (7) indicate the location and dimensions of easements to be dedicated for any

City utilities (water and/or sewer) which must be a minimum of five (5) feet in width on each side;

(8) if the lots are to be served by on-site sewage or septic systems instead of City sewer, include a statement evidencing that the lot size and location has been reviewed and approved by the authority regulating such systems for the applicable jurisdiction;

(9) include the location of all permanent monuments and control points;

(10) list any restrictive covenants imposed on the land if desired by the subdivider;

(11) include a statement signed and acknowledged by the owner dedicating all streets, alleys, easements (including required city utility easements), parks and other open spaces to be dedicated for public use, or for private streets or easements, a statement that the subdivider has made provision for perpetual maintenance thereof by the owners or purchasers of lots, if such are not to be dedicated;

(12) include a certificate bearing the signature and seal of the engineer or surveyor who prepared the plat that all requirements of this chapter have been met; and

(13) include the signature and acknowledgement of the owner of the land. The plat submission must include a tax certificate showing that all taxes are current on the property;

Proposed uses of the subdivided land must comply with the City's Zoning Ordinance.

## **Sec. 18-21. Plat Submission and Review.**

### **(1) Standard Procedure – Commission Approval:**

(a) Any person wishing to have a Subdivision Plat considered for approval by the City must file an application and a copy of a Plat meeting the requirements of this Chapter with the City Secretary. If the City has adopted a fee for plat submission the filing must be accompanied by payment of such fee.

(b) The Mayor or such other official, employee or agent that the Mayor may designate to review plats, shall review a plat submission for compliance with this Chapter and any applicable state laws or city ordinances and forward the plat to the Commission for its review.

(c) The Commission must approve a plat or replat required under this Chapter if it meets all applicable regulations.

(d) The Commission shall approve, approve with conditions or disapprove a plat within thirty (30) days after the date the plat is filed with the City Secretary. A plat is approved unless it is disapproved within that period or is approved with conditions in accordance with Texas Local Government Code Section 212.0091.

### **(2) Large Subdivisions and Variances – City Council Approval:**

(a) Any subdivision plat that will divide land into ten or more separate parcels or tracts, or any plat approved by the Commission with a variance must also be approved by the City Council.

(b) If the Commission approves a large subdivision plat or a plat with a variance, it must forward the plat to the City Council. The City Council must approve, approve with conditions or disapprove a plat within thirty (30) days after the date the plat is approved by the Commission. A plat is approved unless it is

disapproved within that period by the City Council or is approved with conditions in accordance with Texas Local Government Code Section 212.0091.

**(3) Minor Plats – Mayor or Designee Approval:**

Amending plats, minor plats or replats involving four or fewer lots fronting on an existing street and not requiring new streets or extension of municipal facilities may be approved by the Mayor or an official or employee designated by the Mayor. Such person may not disapprove a plat but instead shall refer any plat it cannot approve to the Commission or City Council as applicable. The same thirty-day time limit applies to such plats.

**Sec. 18-22. Standards for Approval.**

The applicable approving authority shall approve a plat if:

(1) It conforms to the general plan of the City and its current and future streets, alleys, parks, playgrounds, and public utility facilities;

(2) It conforms to the general plan for the extension of the City and its roads, streets, and public highways within the City and in its extraterritorial jurisdiction, taking into account, access to and extension of sewer and water mains and the instrumentalities of public utilities; and

(3) It conforms to all rules and regulations adopted in and pursuant to this Chapter.

**Sec. 18-23. Dedication and Certification of Compliance.**

(1) The approval of a plat is not considered an acceptance of any proposed dedication and does not impose on the City any duty regarding the maintenance or improvement of any dedicated parts until the appropriate authority makes an actual appropriation of the dedicated parts by entry, use or improvement. The disapproval of a plat is considered a refusal by the City to accept the offered dedication on the plat.

(2) Upon the final approval of a plat by the City in accordance with Section 18-20 the City will issue to the person applying for the approval a certificate stating that the plat has been reviewed and approved by the applicable authority. If a plat is approved by both the Commission and the City Council, either entity may issue such certificate.”

**ARTICLE II. PROCEDURE**

**Sec. 18-24-18-29. Reserved.**

**ARTICLE III. LAYOUT**

**Sec. 18-30. Relationship to street system.**

Streets of new subdivisions shall be in line with existing streets in adjoining property, except where in the opinion of the commission the topography, requirements of traffic circulation or other consideration make it desirable to depart from such alignment.

**Sec. 18-31. Access to lots.**

Each lot shall abut on a dedicated public street.

**Sec. 18 –32. Street right-of-way widths.**

Street right-of-way widths shall be as follows: Fifty (50) feet for local street, sixty (60) feet for collector streets, and eighty (80) feet for thoroughfare and industrial streets. Where topographical conditions, drainage channels, proposed limited development on one side of the street or other special conditions warrant a street of less than fifty (50) feet in width, a lesser width may be approved by the commission.

**Sec. 18-33. Boundary streets.**

When the land proposed to be subdivided is partially or totally bounded on one or more sides by a street, way or thoroughfare having a width less than that specified in section 18-32, such land shall be laid out so as to provide street widths specified therein.

A half street along adjoining property which has not been subdivided may be shown on the general development plan of an entire subdivision, but no lots abutting upon such half street shall be included in the subdivision as approved.

**Sec. 18-34. Street names.**

New streets shall be named so as to provide continuity of name with existing streets and so as to prevent conflict with identical or similar names in other parts of the city.

**Sec. 18-35. Street monuments and property markers.**

Concrete monuments shall be placed at all corners of boundary lines of a subdivision and in any case not more than thirteen hundred (1,300) feet apart. Such monuments shall be eight (8) inches in diameter, and shall be eighteen (18) inches deep except where rock is encountered within fourteen (14) inches of the surface, in which case such monuments shall be countersunk four (4) inches in such rock. The exact intersection point on the monument shall be marked by a copper pin one-fourth (1/4) inch in diameter embedded at least three (3) inches in the monument. The top of the monument shall be placed flush with the natural ground. Intermediate property corners, curve points and angle points shall be marked by iron stakes, not less than twelve (12) inches in length, driven flush with ground or countersunk if necessary in order to avoid being disturbed. This section shall not apply, however, to lots in subdivisions meeting the requirements of section 18-19.

**Sec. 18-36. Street intersections.**

Acute angles between streets at their intersections shall be avoided. However, when intersecting angles sharper than eighty (80) degrees are deemed necessary by the commission, the property line in the small angle of the intersection shall be rounded so as to permit the construction of curbs having a radius of not less than twenty-five (25) feet without decreasing the normal width of the sidewalk area.

**Sec. 18-37. Easements.**

Except where alleys of not less than twenty (20) feet in width are provided, easements for utilities and enclosed or open drainage-ways not less than five (5) feet in width shall be retained on each side of rear lot lines. Where deemed necessary by the commission, such easements not less than five (5) feet in width, on each side of side lot lines, shall be retained. Easements for any or all of such purposes shall be required across parts of lots other than as described above as deemed

necessary by the commission. All such easements shall be so aligned as to permit construction of utilities therein at the minimum cost. Appropriate alleys or service-ways, not less than twenty (20) feet in width, shall be provided to serve commercial and industrial sites. When the engineer designated by the City Administrator finds that easements in areas adjoining a proposed subdivision are necessary to provide adequate drainage thereof or to serve such subdivision with utilities, the subdivider shall obtain such easements or shall make arrangements with the city to obtain them.

**Sec. 18-38. Dead-end streets.**

When the commission finds that topographical or other unusual conditions or development of the most desirable residential plan require laying out a dead-end street, the street shall terminate in a cul-de-sac with a minimum right-of-way radius of sixty (60) feet and shall be no more than four hundred (400) feet long unless necessitated by topography.

**Sec. 18-39. Block lengths.**

Block lengths shall be determined primarily by the requirements of adequate vehicular and pedestrian circulation into, out of, and through such new subdivisions. Residential blocks shall be approximately twelve hundred (1,200) feet long but this length may be varied according to the requirements of circulation, topography and provisions of the master plan.

**Sec. 18-40. Blocks widths.**

Block widths shall be such as to allow for two (2) tiers of lots back to back, except where abutting a thoroughfare to which access to the lots is prohibited, or where prevented by topographical conditions or size of the property.

**Sec. 18-41. Lot arrangements.**

In general, the sidelines of lots shall be approximately at right angles to straight street lines, or radial to curved street lines. In general, any arrangements placing adjacent lots at right angles to each other shall be avoided.

**Sec. 18-42. Lot sizes.**

Where all lots of the subdivision are to be served immediately by a sewage collecting system connected to a public sanitary sewer or a central disposal unit, the minimum dimensions for interior residential lots shall be sixty (60) feet for width and one hundred (115) feet for depth, provided that a decrease in depth may be made if the lot width is increased so as to provide for a minimum lot area of six thousand (6,000) square feet. The minimum width of residential corner lots shall be sixty (60) feet and the minimum area of corner lots shall be six thousand nine hundred (6,900) square feet. Residential lots not served by public sewer system and located in a subdivision which will not be served immediately by a central disposal unit shall be not less than sixty (60) feet wide and not less than nine thousand (9,000) square feet in area.

**Secs. 18-43-18-52. Reserved.**

**ARTICLE IV. IMPROVEMENTS AND UTILITIES IN  
URBAN SUBDIVISIONS**

**Sec. 18-53. Compliance with construction requirements.**

Prior to the commission's approval of the plat, the subdivider shall comply or provide for compliance with the policies and procedures set forth in article II and this article for construction of street improvements and utilities. Until such policies and procedures have been complied with by the subdivider and the plat approved by the commission as herein required, no building, water,

sewer, plumbing or electrical permit shall be issued by the city as to any property in the subdivision.

**Sec. 18-54. Street Construction.**

The subdivider shall excavate, fill and grade all alleys and new streets including sidewalk areas, within the subdivision so that pavements and sidewalks may be constructed along lines and grades approved by the engineer designated by the City Administrator. In general, the grades of sidewalk areas shall be so established that no extreme or abrupt changes in grade are encountered within blocks, but variations may be allowed by the commission where, because of soil conditions, topography or valuable trees, the establishment of such grades would result in undue hardship. New streets and alleys shall be surfaced. Such surfacing shall be constructed in accordance with plans and specifications approved by the engineer designated by the City Administrator and constructed under his supervision. On any existing street traversing, bordering or abutting a proposed subdivision, the city may require paving by assessment or other appropriate procedure. No street shall be surfaced until the underground utilities which are to be installed in the portions of the streets intended for vehicular traffic have been installed.

Streets and alleys shall be constructed in accordance with the standards of the city. Sidewalks, where constructed, shall comply with regulations of the city regulating the construction of the sidewalks.

**Sec. 18-55. Curbs and gutters.**

Curbs and gutters, complying with regulations of the city, shall be installed on all streets within the subdivision along lines and grades approved by the engineer designated by the City Administrator. Curbs and gutters shall be required in boundary streets only on the side of such boundary street adjacent to the subdivision.

**Sec. 18-56. Land drainage.**

Lots in any proposed subdivision subject to flooding by rainfall, as determined by computations approved by the engineer designated by the City Administrator, will not be approved until drainage facilities adequate to carry off such rainfall have been installed or necessary arrangements made for such installation as required by paragraph (d) of subsection (4) of section 18-18. Computations to determine whether such lots or land will be flooded by rainfall and the sizes of drainage facilities adequate to prevent flooding shall be based upon a total run-off of not less than two point six (2.6) cubic feet per second per acre of drainage area, and shall be increased where, in the opinion of the engineer designated by the City Administrator, variable conditions, such as slope of terrain, character of the soil, surface development, and so forth are such as to require it.

Enclosed storm sewers, bridges and culverts of a permanent design adequate to carry off such rainfall shall be installed by the subdivider throughout the entire length of the drainage area within the subdivision, in accordance with plans and specifications approved by the engineer designated by the City Administrator and constructed under his supervision. When the commission, on the basis of competent evidence submitted to it, finds that the cost to the subdivider of installing storm sewers exceeds the enhancement in value of his property due to such improvements, suitable drainage ditches may be installed. Such drainage ditches shall be lined with concrete unless the commission finds that the cost of lining exceeds the enhancement in value of the subdivider's property due to such lining. Under policies to be determined by the City Council, the city may participate in the cost of such improvements.

**Sec. 18-57. Utilities.**

Sanitary sewers shall be installed to serve each lot in all subdivisions where connection is to be made immediately to a community disposal system or to a public sewer system. Where such connection to a system is not to be made immediately, plans shall be prepared for future development and installation of a sewage collecting system to serve each lot, and those parts of such system which will lie in the portion of streets and alleys intended for vehicular traffic shall be

installed. Water lines shall be installed to serve each lot in all subdivision with the city or within any water control and improvement district and in any other subdivision where connection is to be made immediately to a community or a utility water system. In all subdivisions not within the city or within a water control and improvement district where such connection to a system is not to be made immediately, plans shall be prepared for future installation of a water distribution system to serve each lot, and those parts of such system which will lie in the parts of streets and alleys intended for vehicular traffic shall be installed. All plans for such installation shall be made in accordance with the ordinances and regulations of the city and under the supervision of the engineer designated by the City Administrator. A gas lines shall be installed to serve each lot wherever a source of gas supply is within a reasonable distance, not to exceed one thousand (1,000) feet. Where a source of gas supply is not within reasonable distance for such present installation, but is within two thousand (2,000) feet of the subdivision, plans for future installation of gas lines to serve each lot shall be prepared, and those portions of such lines which will lie within the portions of streets and alleys intended for vehicular traffic shall be installed. The subdivider shall arrange with the appropriate utility departments and companies for construction costs of utility lines. Such utilities may also be installed under a private contract approved by the City Council.

**Sec. 18-58. Independent utility districts.**

When a proposed subdivision is located within an area served by a utility corporation independent of the city, such as a water control and improvement district, the subdivider shall furnish, before submission of the plat, a written statement from the authorized official of such utility corporation or district to the effect that necessary arrangements have been made by the subdivider and such utility entity for financing and installing utilities therein, or a written statement from such official that such district or utility cannot provide service to the subdivision.

**Sec. 18-59. Subdivisions where water or sewer utilities are not available.**

Before the commission may approve a final plat for a subdivision located outside of or beyond areas served by a water utility, the subdivider shall be required to furnish the commission satisfactory evidence, including, but not limited to, the results of tests and borings, and statements from local and state health authorities, water engineers, and other competent authorities, that water satisfactory for human consumption may be obtained from surface or subsurface sources on the land. Where the subdivisions lie outside of or beyond areas served by a sanitary sewer utility, unless each lot thereof contains an area of nine thousand (9,000) square feet, the subdivider shall install a sanitary sewer collecting system and construct or cause to be constructed on land provided by him a septic tank or other approved method of sewage treatment and disposal of sufficient capacity to serve such subdivision, designed and located in accordance with the requirements of the state health department.

**Sec. 18-60. Serving subdivisions with utilities.**

Unless and until a plat of an urban subdivision has been approved, and the subdivider has constructed the streets, curbs, gutters, paving, utilities and drainage facilities therein, in the manner provided in this chapter, it shall be unlawful for any official of the city to serve or connect any public utilities owned, controlled, or distributed by the city to any land, or any part thereof, covered by said plat, or to the owners or purchasers of such land, or any part thereof.

**Sec. 18-61. Dedication and maintenance of streets.**

Disapproval of a plat by the commission shall be deemed a refusal by the city to accept the offered dedications shown thereon. Approval of a plat shall not be deemed an acceptance of the proposed dedications and shall not impose any duty upon the city concerning the maintenance or improvements of any such dedicated parts until the proper authorities of the city have actually appropriated the same by entry, use or improvement. It shall be unlawful for any officer or employee of the city to enter upon or maintain the streets in an urban subdivision and the city will not accept or maintain such streets, unless and until such streets have been surfaced, curbed and guttered, and the required utilities and drainage facilities have been installed, and such

improvements have been accepted by the city, with such acceptance evidenced in writing by written certificate of the city engineer.

**Secs. 18-62 – 18-71. Reserved.**

**ARTICLE V. IMPROVEMENTS AND UTILITIES IN  
SUBURBAN SUBDIVISIONS**

**Sec. 18-72. Street construction and drainage**

New streets and roads and bridges shall be constructed and installed in accordance with the requirements of Bosque County for acceptance for maintenance. Drainage facilities shall be installed in compliance with the regulations of Bosque County. All roads shall be dedicated to the public.

**Sec. 18-73. Utilities.**

Water satisfactory for human consumption shall be available to each lot from a source on the land, a community source, or a public utility source, in adequate and sufficient supply for family use and operation of a septic tank and system as hereinafter provided. A septic tank with a tank of not less than five hundred (500) gallon capacity and with a drain field of not less than one hundred fifty (150) feet shall be installed on each lot in accordance with\_ the regulations of the city and county health officers and shall be inspected and approved by such office.

Chapter 19

**TRAFFIC**

Art. I.	In General,	§§ 19-1-19-9
Art. II.	Parade Permits	§§ 19-10-19-23

**ARTICLE I. - IN GENERAL**

**Sec. 19-1. Removal of illegally stopped vehicle – Authority; conditions warranting.**

Any unoccupied or unattended vehicle found in violation of any provisions of this section or any ordinance of the city regulating parking or standing of vehicles is declared to be a public nuisance, a detriment to the public welfare of the city and a menace to the safe and proper regulation of traffic, and any police officer of the city is authorized to remove and impound such vehicle to the nearest garage or other place designated for that purpose under the circumstances hereinafter enumerated:

- (1) Any unoccupied or unattended vehicle found violating any provisions of the city ordinances regulating standing or parking of vehicles.
- (2) When any vehicle is left unattended upon any bridge, viaduct or causeway or in any tube or tunnel where such vehicle constitutes an obstruction to traffic.
- (3) When any vehicle is illegally parked so as to block the entrance to any private driveway and it is impracticable to move such vehicle from in front of the driveway to another point on the street or highway.
- (4) When any vehicle is found upon a highway and a report has previously been made that such vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that such vehicle has been embezzled.
- (5) When any such officer has reasonable grounds to believe that any vehicle has been abandoned.
- (6) When an officer arrests any person driving or in control of a vehicle for an alleged offense and such officer is by ordinances of the city or other law required to take the person arrested immediately before a magistrate.

**Sec. 19-2. Access driveway regulations.**

Rules and regulations established by the Texas Department of Transportation shall govern in the design, construction and maintenance of access driveways on city streets or highway routes within the city.

**Sec. 19-3. Blind corners; obstructions prohibited.**

No wall, fence, structure, sign, tree, shrub or hedge located on a corner lot shall be so maintained as to cause a danger to traffic by obstructing the view; provided, however, this provision in regard to structures shall not be applicable to business buildings located in the downtown business area.

**Sec. 19-4. Loading zones; use, maximum time.**

It shall be unlawful for the operator of a vehicle to stop, stand or park such vehicle for a period of time longer than is necessary for the expeditious loading or unloading of passengers, or for the unloading and delivery or pickup and loading of materials in anyplace marked as a loading zone. In no case shall the stop for loading and unloading exceed thirty (30) minutes.

**Sec. 19-5. Same - Trucks, except to load or unload**

It shall be unlawful to park or allow to park any truck, trailer, trailer house or truck and connected trailer with a length of twenty (20) feet or more, or a width of eight (8) feet or more on any street in the city except for the purpose of loading and unloading.

**Sec. 19-6. Speed restrictions.**

The traffic laws of the State of Texas regulating the speed of vehicles shall be applicable upon all streets within this city, except that City Council may establish lower speeds on specified streets or in specified areas and direct signs to such effect be erected, in which event it shall be prima facie unlawful for any person to drive a vehicle at a speed in excess of any speed so declared when such signs are in place giving notice thereof.

**Secs. 19-7-19-9. Reserved.**

**ARTICLE II – PARADE PERMITS**

**Sec. 19-10. DEFINITION OF PARADE.**

“Parade” means any march or procession consisting of people, animals or vehicles, or any combination thereof, except funeral processions, upon any public street, sidewalk or alley, which does not comply with normal and usual traffic regulations or controls.

**Sec. 19-11. PERMITS.**

It shall be unlawful for any person to conduct a parade in or upon any public street, sidewalk or alley in the City or knowingly participate in any parade unless and until a permit to conduct the parade has been obtained from the Chief of Police, or, as hereinafter provided, from the City Council.

**Sec. 19-12. COMMERCIAL PURPOSE PROHIBITED.**

No permit shall be issued authorizing the conduct of a parade which the Chief of Police finds is proposed to be held for the sole purpose of advertising any product, goods, wares, merchandise or event, and is designed to be held purely for private profit.

**Sec. 19-13. INTERFERENCE WITH PARADE PROHIBITED.**

No person shall knowingly join or participate in any parade conducted under permit from the Chief of Police in violation of any of the terms of the permit, nor knowingly join or participate in any permitted parade without the consent and over the objection of the permittee, nor in any manner interfere with its progress or orderly conduct.

#### **Sec. 19-14. APPLICATION FOR PERMIT.**

Any person who wishes to conduct a parade shall apply to the Chief of Police for a permit as far in advance as possible, but in no event more than 45 or less than 10 days in advance of the date of the proposed parade. The Chief of Police may, in his or her discretion, consider an application for a permit to conduct a parade which is filed less than 10 days prior to the date the parade is to be conducted. The application for the permit shall be made in writing on a form approved by the Chief of Police. In order that adequate arrangements may be made for the proper policing of the parade, the application shall contain the following information:

- (1) The name of the applicant, the sponsoring organization, the parade chairperson and the addresses and telephone numbers of each;
- (2) The purpose of the parade, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, route to be traveled and the approximate time when the parade will assemble, start and terminate;
- (3) An estimate of the total length of the parade with a general description of the individual floats, marching units, vehicles, bands, including specification of any sound amplification equipment to be used; and
- (4) Other information as the Chief of Police may deem reasonably necessary.

#### **Sec. 19-15. ISSUANCE OR DENIAL OF PERMIT.**

The Chief of Police shall issue a parade permit conditioned upon the applicant's written agreement to comply with the terms of the permit unless the Chief of Police finds that:

- (1) The time, route and size of the parade will disrupt, to an unreasonable extent, the movement of other traffic;
- (2) The parade is of a size or nature that requires the diversion of police or other resources so great as to deny reasonable police protection to the rest of the City or impose an unreasonable burden on the City as determined by the Chief of Police; or
- (3) The parade will interfere with another parade for which a permit has been issued.
- (4) The Chief of Police shall deny an application for a parade permit and notify the applicant of the denial where:
- (5) The Chief of Police makes any finding contrary to the findings required to be made for the issuance of a permit;
- (6) The information contained in the application is found to be false, inadequate or nonexistent in any material detail;
- (7) The applicant refuses to agree to abide by or comply with all conditions of the permit; or
- (8) The Mayor or the City Administrator makes a finding that the proposed parade will impose an unreasonable burden on the City or will result in uncompensated cost to the City.

#### **Sec. 19-16. CONTENTS OF PERMIT.**

In each permit, the Chief of Police shall specify:

- (1) The assembly area and time therefor;
- (2) The starting time;
- (3) The route of the parade ;
- (4) What portions of streets to be traversed may be occupied by the parade ;
- (5) The disbanding area and disbanding time;
- (6) That the parade continue to move at a fixed rate of speed and that any willful delay or willful stopping of the parade, except when reasonably required for the safe and orderly conduct of the parade, shall constitute a violation of the permit; and
- (7) Other requirements as are found by the Chief of Police to be reasonably necessary for the protection of persons or property.

All conditions of the permit shall be complied with so far as reasonably practicable.

**Sec. 19-17. OFFICIALS TO BE NOTIFIED.**

Immediately upon the granting of a permit for a parade, the Chief of Police shall send a copy thereof to the following:

- (1) The Mayor;
- (2) The City Administrator;
- (3) The City Secretary;
- (4) The Fire Chief.

**Sec. 19-18. APPEAL PROCEDURES.**

Upon a denial by the Chief of Police of an application made pursuant to this Article, the applicant may within five days thereafter appeal to the City Council by filing a written notice of appeal for hearing by the Council at its next meeting. Upon the appeal, the City Council may reverse, affirm or modify, in any regard, the determination of the Chief of Police.

**Sec. 19-19. REVOCATION OF PERMIT.**

Any permit for a parade issued pursuant to this Article may be summarily revoked by the Chief of Police at any time when, by reason of disaster, public calamity, riot or other reason deemed sufficient by the Chief of Police, the Chief of Police determines that the safety of the public or property requires the revocation. Notice of the action revoking a permit shall be delivered to the permittee in any manner reasonably anticipated to give actual notice of such revocation.

**Sec. 19-20. PENALTY.**

Should any person, firm or corporation violate the provisions of this Article, or the permit issued pursuant hereto, such person, firm or corporation shall be deemed guilty of a misdemeanor and fined in accordance with the ordinances of the City and any applicable law of the State of Texas.

Chapter 20

**RESERVED**

Chapter 21

**WATER AND SEWERS**

Art. I.	Fees and charges,	§§ 21-1-21-17
Art. II.	Sewers and Drains	§§ 21-35-21-76
Div. 1	Generally,	§§ 21-35-21-48
Div. 2	Building Sewer and Connections,	§§ 21-49-21-64
Div. 3	Restrictions on Discharges,	§§ 21-65-21-76

**ARTICLE I. FEES AND CHARGES**

**Sec. 21-1. Definitions.**

As used in this article, the following terms shall have the respective meanings ascribed to them:

*Apartment house:* A collection of dwellings for housing a number of people grouped in four (4) or more families, assigned to different sections in the same structure. Each family or group of people shall be considered a separate unit.

*Charitable institution:* One whose property is derived from charitable gifts or bequests and is administered not for the purpose of gain but in the interest of humanity. Each charitable institution shall constitute a separate unit.

*Family:* A family is any number of individuals living together as a single housekeeping unit.

*Office building:* A building in which is located one or more business offices. Each office shall constitute a separate unit.

*One family residence:* A building used exclusively as living quarters for a family and occupied by only one (1) family. A one family residence shall constitute one (1) unit.

*Three family residence:* A building used exclusively as living quarters for three (3) families and occupied by not more than three (3) families. In a three family residence, each family shall be considered as a separate unit.

*Tourist court:* A collection of dwellings for housing a number of people. Each dwelling shall constitute a separate unit.

*Trailer court:* A collection of trailer houses in one area. Each trailer house shall constitute a separate unit.

*Two family residence:* A building used exclusively as living quarters for two (2) families and occupied by not more than two (2) families. In a two family residence, each family shall be considered as a separate unit.

**Sec. 21-2. Water rate schedule.**

A schedule of water rates and fees shall be adopted and may, from time to time, be amended by City Council. A copy of the current schedule shall be maintained by the City Secretary.

**Sec. 21-3. Sewer rate schedule.**

A schedule of sewer rates and fees, including rates and fees to be paid by persons outside the city who are connected to and using the sanitary sewer system of the city, shall be adopted and may, from time to time, be amended by City Council. Such schedule may, in the discretion of the City Council, establish rates or fees based on the number of units served, or establish different rates or fees for different uses, including, without limitation, two or three family residences, apartment houses, charitable institutions, office buildings, tourist courts, trailer courts or any other use which City Council determines should be charged a different rate or fee from that charged a one family residence. A copy of the current schedule shall be maintained by the City Secretary.

**Sec. 21-4. No rights to service outside city; contracts authorized.**

No provisions of this article shall be construed as giving any person located, living, or residing outside the city the right to tie on to or enjoy the sanitary sewer services of the city or appurtenances thereto, but the City Council of the city may contract with any person for sewer service under such terms and conditions as may appear to such City Council to be for the best interest of the city.

**Sec. 21-5. Date and place of payment.**

The sewer and water fees and charges shall be due and payable monthly to the city at the city hall, or in such other manner as may from time to time be established by the city.

**Sec. 21-6. Delinquency in payment for services.**

Any person who shall fail to pay any water or sewer charge, fee or rental as herein levied and assessed within twenty (20) days from the time same becomes due and payable shall be subject to have such person's sewer and water service disconnected from the city's sewer and water system and lines and thereafter no sewer or water connection which has been so disconnected for the nonpayment of said charges shall be again reconnected for the same user until all costs incurred in the actual physical disconnect-reconnect have been paid and all delinquent sewer and water service charges have been paid to the city.

**Sec. 21-7. Name in which assessable.**

The charges herein assessed shall be assessed against the person in whose name the water meter is assessed, whether or not said meter is owned by the water department of the city or any other water company furnishing water to any inhabitants. In the event any person is connected to or is using the sanitary sewer system of the city and is not connected to either the water of the city or any other water company furnishing water to any inhabitants, the charges herein shall be assessed in the name of the person connected to and using the city's municipal sewer system.

**Sec. 21-8-21-34. Reserved.**

**ARTICLE II. SEWERS AND DRAINS**

**DIVISION 1. GENERALLY**

**Sec. 21-35. Definitions.**

Unless the context specifically indicates otherwise, the meanings of terms used in this article shall be as follows :

*BOD (denoting biochemical, oxygen demand):* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade, expressed in milligrams per liter.

*Building drain:* That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste or other drainage pipes inside the walls of the building and conveys to the building sewer, beginning five (5) feet (1.5 meters) outside the inner face of the building wall.

*Building sewer:* The extension from the building drain to the public sewer or other place of disposal.

*City engineer:* The engineer designated by the City Administrator or any authorized deputy, agent or representative.

*Combined sewer:* a sewer receiving both surface runoff and sewage.

*Garbage:* Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

*Industrial wastes:* The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

*Natural outlet:* Any outlet into a watercourse, pond, ditch, lake or other body or surface of ground water.

*pH:* The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

*Properly shredded garbage:* The wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one half (1/2) inch (1.27 centimeters) in any dimension.

*Public sewer:* A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

*Sanitary sewer:* A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

*Sewage:* A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, and storm waters as may be present.

*Sewage treatment plant:* Any arrangement of devices and structures used for treating sewage.

*Sewage works:* All facilities for collecting, pumping, treating and disposing of sewage,

*Sewer:* A pipe or conduit for carrying sewage.

*Slug:* Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period or duration longer than fifteen (15) minutes more than five (5) times the average twenty four (24) hour concentration or flows during normal operation.

*Storm drain (sometimes termed "storm sewer"):* A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

*Suspended solids:* Solids that either float on the surface of, or are in suspension in, water, sewage or other liquids, and which are removable by laboratory filtering.

*Watercourse:* A channel in which a flow of water occurs, either continuously or intermittently.

**Sec. 21-36. Privies, septic tanks and cesspools prohibited generally.**

Except as herein otherwise provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.

**Sec. 21-37. Toilet facilities and public sewer connection, when required.**

The owner of all houses, buildings, or properties used for human occupation, employment, recreation or other purposes, situated within the city and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary or combined sewer of the city, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this article within ninety (90) days after date of official notice to do so, provided such public sewer is within one hundred (100) feet (30.5 meters) of the property line.

**Sec. 21-38. Private system-Connection required where public sewer not available.**

Where a public sanitary or combined sewer is not available under the provisions of section 21-37, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this article,

**Sec. 21-39. Same-Construction permit.**

Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit issued by the city engineer. The application for such permit shall be made on a form furnished by the city, which the applicant shall supplement by any plans, specifications and other information deemed necessary by the city engineer. A permit and inspection fee in an amount determined by City Council shall be paid to the city at the time the application is filed.

**Sec. 21-40. Damage, etc., to sewage works property.**

No person shall maliciously, negligently, or willfully, break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is a part of the sewage works.

**Sec. 21-41. Right of entry of officers-Authorized; purposes; inquiry restricted.**

The city engineer and other duly authorized employees of the city, bearing proper credentials and identification, shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this article. The city engineer or his representatives shall have no authority to inquire into any process, including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.

**Sec. 21-42. Same-Safety precautions; indemnification of company.**

While performing the necessary work on private properties referred to in section 21-41, the city engineer or duly authorized employees of the city shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or

death to the city employees and the city shall indemnify the company against loss or damage to its property by city employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required herein.

**Sec. 21-43. Same-on easements.**

The city engineer and other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties through which the city holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

**Secs. 21-44-21-48. Reerved.**

**DIVISION 2. BUILDING SEWER AND CONNECTIONS**

**Sec. 21-49. Permit Required for work relating to public sewer.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the city engineer.

**Sec. 21-50. Same-Classes; application; fees.**

There shall be two (2) classes of building sewer permits: (a) For residential and commercial service; and (b) for service to establishments producing industrial wastes. In either case, the owner or his agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the city engineer. A permit and inspection fee in an amount determined by City Council shall be paid to the city at the time the application is filed.

**Sec. 21-51. Building sewer costs; indemnification of city engineer.**

All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the city engineer from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**Sec. 21-52. Separate building sewers.**

A separate and independent building sewer shall be provided for every building; except that where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

**Sec. 21-53. Use of old building sewer with new building sewer.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the city engineer, to meet all requirements of this article.

**Sec. 21-54. Building sewer elevation.**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

**Sec. 21-55. Downspout, etc., connections to public sanitary sewer.**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

**Sec. 21-56. Building sewer construction standards.**

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city.

**Sec. 21-57. Building sewer connection standards.**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing codes or other applicable rules and regulations of the city, or the procedures set forth in appropriate specification of the A.S.T.M. and the C.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the engineer designated by the City Administrator before installation.

**Sec. 21-58. Notice of building sewer connection readiness; supervision.**

The applicant for the building sewer permit shall notify the engineer designated by the City Administrator when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the engineer designated by the City Administrator or his representative.

**Sec. 21-59. Excavations; barricades and lights, surface restoration.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the city.

**Sec. 21-60-21-64. Reserved.**

**DIVISION 3. RESTRICTIONS ON DISCHARGES**

**Sec. 21-65. Deposit of objectionable waste on city property.**

It shall be unlawful for any person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the city or in any area under the jurisdiction of the city any human or animal excrement, garbage, or other objectionable waste.

**Sec. 21-66. Discharge to natural outlet to be treated.**

It shall be unlawful to discharge to any natural outlet within the city, or in any area under the jurisdiction of the city, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this article.

**Sec. 21-67. Prohibited water discharges into sanitary sewer.**

No person shall discharge or cause to be discharge any storm water, surface water, ground water, roof runoff, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

**Sec. 21 –68. Types of discharges into combine or storm sewers or natural outlets.**

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the engineer designated by the City Administrator. Industrial cooling water or unpolluted process water may be discharged, on approval o the engineer designated by the City Administrator, to a storm sewer, combined sewer, or natural outlet.

**Sec. 21-69. Prohibited waste discharges into public sewers - Enumeration.**

No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to human, or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant, including but not limited to cyanides in excess of two (2) mg/1 as CN in the wastes as discharged to the public sewer.
- (3) Any waters or wastes having a pH lower than five point five (5.5) or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

**Sec. 21-70. Same-Certain substances as determined by engineer designated by the City Administrator.**

No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the engineer designated by the City Administrator that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the engineer designated by the City Administrator will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred fifty (150) degrees Fahrenheit (sixty-five (65) degrees Centigrade)
- (2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/1 or containing substances which may solidify or become viscous at

temperatures between thirty-two (32) and one hundred fifty (150) degrees Fahrenheit and zero (0) and sixty-five (65) degrees Centigrade.

- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the engineer designated by the City Administrator.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances, or wastes exerting an excessive chlorine requirement to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the engineer designated by the City Administrator for such materials.
- (6) Any waters or wastes containing phenols or other taste or odor producing substances, in such concentration exceeding limits which may be established by the engineer designated by the City Administrator as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge to the receiving waters.
- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the engineer designated by the City Administrator in compliance with applicable state or federal regulations.
- (8) Any waters or wastes having a pH in excess of nine point five (9.5).
- (9) Materials which exert or cause:
  - (a) Unusual concentrations of inert suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids, (such as but not limited to sodium chloride and sodium sulfate).
  - (b) Excessive discoloration (such as, but not limited to, due wastes and vegetable tanning solutions).
  - (c) Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (d) Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amendable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

**Sec. 21-71. Preventive or remedial requirements by engineer designated by the City Administrator.**

- (1) If any waters or wastes are discharged, or are proposed to be discharged to the public sewers, which waters contain the substances or process the characteristics enumerated in section 21-70, and which in the judgment of the engineer designated by the City Administrator may have deleterious effect upon the sewage works, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the engineer designated by the City Administrator may:
  - (a) Reject the wastes;
  - (a) Require pretreatment to an acceptable condition for discharge to the public sewers;
  - (b) Require control over the quantities and rates of discharge; and / or
  - (c) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of section 21-76.
- (2) If the engineer designated by the City Administrator permits the pretreatment or equalization of waste flows, the design and installation of the plants and equipment shall be subject to the review and approval of the engineer designated by the City Administrator, and subject to the requirements of all applicable codes, ordinances and laws.

**Sec. 21-72. Interceptors.**

Grease, oil and sand interceptors shall be provided when, in the opinion of the engineer designated by the City Administrator, they are necessary for proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the engineer designated by the City Administrator and shall be located as to be readily and easily accessible for cleaning and inspection.

**Sec. 21-73. Continuity of preliminary treatment or flow-equalizer facilities.**

Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

**Sec. 21-74. Control manhole, etc.**

When required by the engineer designated by the City Administrator, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the engineer designated by the City Administrator. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

**Sec. 21-75. Measurement, test and analysis standards.**

All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis is obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples).

**Sec. 21-76. Special agreement as to industrial waste.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial concern.

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