

CHAPTER 10

LICENSES AND BUSINESS REGULATIONS*

***Cross reference(s)**--Notice required for sentry or guard dogs in any business establishment, § 3-5; permit required for commercial animal establishments or animal shelters, § 3-131 et seq.; master electrician's license required, § 4-137; sales and use tax adopted, § 6-76 et seq.; occupation tax levied, § 6-101 et seq.; fireworks and blasting agents prohibited in the city, § 7-56; new materials, processes or occupancies requiring permits from the fire marshal, etc., § 7-65; specific standards for flood hazard prevention in nonresidential buildings, § 8-72(2); mobile home park licenses, § 11-86 et seq.; certain businesses declared nuisances, § 13-1; restrictions on advertising, signs, etc., § 13-3.

State law reference(s)--Authority to regulate certain businesses, V.T.C.A., Local Government Code § 215.001 et seq.; licenses, fees, suspension or revocation, V.T.C.A., Local Government Code § 215.033.

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ARTICLE I. IN GENERAL

Secs. 10-1--10-25. Reserved.

ARTICLE II. ALCOHOLIC BEVERAGES*

*State law reference(s)--Alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 1.01 et seq.

Sec. 10-26. Definitions.

Any and all terms used in this section shall, unless otherwise expressly provided herein, be defined as provided in V.T.C.A., Alcoholic Beverage Code § 1.01 et seq.

(Ord. No. 277, § 3, 6-25-79)

Sec. 10-27. Sale of beer in residential area.

It shall be unlawful for any person to sell beer for on-premises consumption within a residential area in the city. For the purposes of this section, the term "residential area" shall include, but not be limited to, any and all areas used for residential purposes, together with territory contiguous to and including any highway, street, alley or other public way within the city which is adjacent to on both or either sides property which includes structures used for residential purposes.

(Ord. No. 277, § 1, 6-25-79)

Sec. 10-28. Proximity of sales to church, school, hospital.

It shall be unlawful for any dealer whose place of business is within three hundred (300) feet of a church, public school or public hospital to sell alcoholic beverages so long as the dealer's place of business, church, public school or public hospital in question is situated within the city. The measurement of the distance shall be along the property line of the street fronts and from front door to front door, and in direct line across intersections.

(Ord. No. 277, §§ 1, 2, 6-25-79)

State law reference(s)--Sales of beer in residential areas, V.T.C.A., Alcoholic Beverage Code § 109.32; sales near school, church or hospital, V.T.C.A., Alcoholic Beverage Code § 109.33.

Sec. 10-29. Beer license required.

(a) The city does hereby levy a beer license fee pursuant to V.T.C.A., Alcoholic Beverage Code § 61.36 which shall be one-half of the state fee upon every person as permitted by V.T.C.A., Alcoholic Beverage Code § 61.36 and this article unless prohibited by state law.

(b) It shall be unlawful to conduct any business in the city for which a license is required by V.T.C.A., Alcoholic Beverage Code § 61.36 and this section.

State law reference(s)--Local fee authorized, V.T.C.A., Alcoholic Beverage Code § 61.36.

Sec. 10-30. Application; presumption of disapproval in absence of hearing.

It shall be conclusively presumed that any application by an applicant who seeks to conduct business within the city, or the extraterritorial jurisdiction thereof, for a permit or license for the retail sale of liquor, beer or any other alcoholic beverage governed by the Texas Alcoholic Beverage Code has been expressly disapproved by the mayor, chief of police, city attorney and the City Council unless the applicant has first filed a copy of such application with the city secretary and requested a public hearing in accordance with this article. It shall be unlawful for any person to represent to the licensing or permitting authority that the applicant has the approval of all or any of the pertinent officials of the city, except to the extent the application has been approved by the City Council in accordance with this article, or if approval by the council is exempted under section 10-32. For the purposes of this article, the term "application" shall apply to all original, change, renewal, and/or consolidated applications.

(Ord. No. 384, § 1(9-1), 7-10-89)

Sec. 10-31. Hearing procedure.

Any and all applications described in section 10-30 of this article shall be filed with the city secretary no later than ten (10) days following the date of its filing with the permitting or licensing authority. The applicant shall request that the application be placed on the agenda of the next regularly scheduled meeting of the City Council for the purpose of a public hearing to permit citizen input with respect to the approval or disapproval of such application. Notice of such hearing must be published in the official newspaper of the city no less than ten (10) nor more than twenty (20) days prior to the hearing date, such publication to be at the sole cost and expense of the applicant. Failure of the City Council to approve or disapprove the application within ten (10) days of the date of such hearing shall be deemed to constitute approval of such application. Notice of the formal action by the City Council or the deemed approval by the City Council as provided above shall be forwarded to the licensing or permitting authority and to the county judge no later than the eleventh day following the date of the hearing.

(Ord. No. 384, § 1(9-2), 7-10-89)

Sec. 10-32. Exemptions.

Exempted from the filing and hearing requirements of this article are any applications for a temporary license for the retail sale of beer which would permit on-premises consumption, so long as such license does not exceed twenty-four (24) hours in duration.

(Ord. No. 384, § 1(9-3), 7-10-89)

State law reference(s)--Authority, V.T.C.A., Alcoholic Beverage Code §§ 11.41, 61.32.

Secs. 10-33--10-55. Reserved.

ARTICLE III. OIL AND GAS DRILLING AND OPERATIONS*

***State law reference(s)**--Oil and gas regulations, V.T.C.A., Natural Resource Code § 85.001 et seq.; authority for city to lease land for oil, gas or mineral exploration, V.T.C.A., Local Government Code § 253.005.

Sec. 10-56. Drilling, completion and operation prohibited.

It shall be unlawful for any person to drill or commence to drill a well for oil or gas within the city or the allowable extraterritorial jurisdiction of the city or to work upon or assist in any way in the prosecution of the drilling of any such well.

(Code 1977, § 12-1)

Secs. 10-57--10-80. Reserved.

ARTICLE IV. PEDDLERS, ITINERANT VENDORS, SOLICITORS*

***State law reference(s)**--Authority to license and regulate hawkers and peddlers in the city, V.T.C.A., Local Government Code § 215.031; authority to restrain hawking of goods on streets and sidewalks, V.T.C.A., Local Government Code § 217.003.

Sec. 10-81. Purpose and construction.

This article is an exercise of the police power of the state and of the city for the public safety, comfort, convenience and protection of the city and citizens of the city, and all of the provisions hereof shall be construed for the accomplishment of that purpose.

(Code 1977, § 13-1)

Sec. 10-82. Definitions.

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

(1) **Interstate commerce** shall mean soliciting, selling or taking orders for or offering to take orders for any goods, wares, merchandise, photographs, newspapers or magazines, or subscriptions to newspapers or magazines which, at the time the order is taken, are in another state or will be produced in another state and shipped or introduced into the city in the fulfillment of such orders.

(2) **Itinerant merchant** or **itinerant vendor** shall mean any person

engaged in any activity mentioned in section 10-83.

(Code 1977, § 13-2)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 10-83. License--Required.

It shall be unlawful for any person to go from house-to-house or from place-to-place in the city soliciting, selling or taking orders for or offering to sell or take orders for any goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines, without having first applied for and obtained a license so to do from the city secretary. It shall also be unlawful to sell or solicit in the city without carrying such license while engaged in such soliciting or selling.

(Code 1977, § 13-3)

Sec. 10-84. Same--Application.

Any person desiring to go from house-to-house or from place-to-place in the city to sell or solicit orders for goods, wares, merchandise, services, photographs, newspapers, magazines or subscriptions to newspapers or magazines shall make written application to the city secretary for a license so to do, which application shall show the name and address of applicant, the name and address of the person, if any, that he represents and the kind of goods offered for sale, and whether such applicant upon any such sale or order shall demand, accept or receive payment or deposit of money in advance or final delivery, and the period of time such applicant wishes to sell or solicit in the city.

(Code 1977, § 13-4)

Sec. 10-85. Same--Bond.

The application for license under this article shall be accompanied by a bond in the penal sum of one thousand dollars (\$1,000.00), signed by applicant and signed, as surety, by some surety company authorized to do business in the state, conditioned for the final delivery of goods, wares, merchandise, services, photographs, magazines and newspapers in accordance with the terms of any order obtained prior to delivery and also conditioned to indemnify all purchasers or customers for all defects in material or workmanship that may exist in the article sold by the principal of such bond,

at the time of delivery, and that may be discovered by such purchaser or customer within thirty (30) days after delivery, and which bond shall be for the use and benefit of all persons who may make any purchase or give any order to the principal on said bond, or to an agent or employee of the principal. In case the applicant is a person engaging in any activity mentioned in section 10-83 through one (1) or more agents or employees, such persons shall be required to enter into only one (1) bond, in the sum above required, which bond shall be made to cover the activities of all its agents or employees.

(Code 1977, § 13-5)

Sec. 10-86. Same--Fees; term.

The license fee for an itinerant merchant or itinerant vendor shall be on file in the city secretary's office; however, when any person engages in any activity mentioned in section 10-83 through one (1) or more agents or employees such person shall, in addition to said fee above mentioned, pay a license fee on file in the city secretary's office for each agent or employee so engaged, all of which licenses shall be valid for one (1) year from the date of their issuance. The fees herein provided for shall be used for the purpose of defraying expenses incident to the issuing of said licenses.

(Code 1977, § 13-6)

Sec. 10-87. Exemptions--Commercial travelers, etc.

The provisions of this article shall not apply to sales made to dealers by commercial travelers or sales agents in the usual course of business, or to sales made under authority and by order of law, or to vendors of farm or dairy products.

(Code 1977, § 13-7)

Sec. 10-88. Same--Interstate commerce business; registration.

(a) The provisions of this article shall not apply to persons engaged in interstate commerce. However, it shall be unlawful for persons engaged in interstate commerce to go from house-to-house or place-to-place in the city without having first registered with the city secretary giving the following information:

- (1) Name, home address and local address, if any, of registrant.
- (2) Name and address of the person, if any, that he represents

or for whom or through whom orders are to be solicited or cleared.

- (3) Nature of the articles or things which are to be sold or for which orders are to be solicited.
- (4) Whether registrant, upon any sale or order, shall demand or receive or accept payment or deposit of money in advance of final delivery.
- (5) Period of time which registrant wishes to solicit or sell in the city.

(b) The registrant, at the time of the registration, shall submit for inspection of the city secretary written proof of his identity which may be in the form of an automobile operator's license or identification letter or card issued to registrant by the person for whom or through whom orders are to be solicited or cleared.

(Code 1977, § 13-8)

Sec. 10-89. Going uninvited on premises.

(a) The practice of going in and upon private residences, business establishments or offices in the city by solicitors, peddlers, hawkers, itinerant merchants and transient vendors of merchandise, not having been requested or invited to do so by the owner or occupant of such private residences, business establishments or offices for the purpose of soliciting orders for the sale of goods, wares and merchandise, and/or for the purpose of disposing of and/or peddling or hawking the same, is hereby declared to be a nuisance, and punishable as such nuisance as a violation of this Code.

(b) The provisions of this section shall not apply to persons employed by or representing any established merchant or business firm located and regularly doing business in the city, nor to farmers selling any food item raised or produced by themselves, nor to permanently established residents who are voters in the city, or anyone duly licensed.

(Code 1977, § 13-9)

Sec. 10-90. Refusal to leave premises.

Any peddler, hawker or itinerant vendor who enters upon premises owned

or leased by another and wilfully refuses to leave such premises, after having been notified by the owner or possessor of such premises to leave same, shall be guilty of a violation of this Code.

(Code 1977, § 13-10)

Secs. 10-91--10-115. Reserved.

ARTICLE V. SCRAP AND SALVAGE YARDS

Sec. 10-116. License--Required.

It shall be unlawful for any person within the city limits to operate a business as a scrap and salvage yard or dumping ground, or for the wrecking or disassembling of automobiles, trucks, tractors or machinery of any kind, or for the storing or leaving of worn-out, wrecked or abandoned automobiles, trucks, tractors, stoves, refrigerators or machinery of any kind, or of any of the parts thereof, or for the accumulation of rubbish of any description, without first having obtained a license from the city secretary in accordance with the provisions of this article.

(Ord. No. 276, § 2, 6-11-79)

Sec. 10-117. Same--Application; license fee; term and renewals.

Any person desiring to operate such a business within the city for any of the purposes mentioned in this article shall make written application to the city manager for a license, which application shall set forth the name and address of the applicant and a legal description of the property or premises upon which business is to be conducted. The city manager shall have the power either to grant or reject such application. If the application is granted, a license to operate such a business shall be issued by the city secretary upon the payment of a fee, which is on file in the city secretary's office. Such license shall expire at 12:00 midnight, December 31st next following the date of issuance, but may be renewed from year to year in like manner by filing application and paying the above fee.

(Ord. No. 276, § 3, 6-11-79)

Sec. 10-118. Same--Revocation.

Any license granted under this article shall be revocable by the City Council for cause. The licensee shall be notified by the city secretary of the proposed revocation, as well as of the time and place of the meeting of the City Council at which the same will be considered by it. The licensee will be afforded a hearing at such meeting of the City Council by filing with the city secretary his request therefor in writing not less than one (1) week prior to such meeting of the City Council.

(Ord. No. 276, § 4, 6-11-79)

Sec. 10-119. Operation and maintenance--Enclosure.

Any person granted a license as provided for in this article shall maintain the premises used in the operation and maintenance of such business in a good state of repair and cleanliness. The property and premises on which such business is conducted shall be enclosed to the fullest extent necessary to the effective accomplishment of the aforesaid public purposes by a board, brick, block, or solid metal fence not less than eight (8) feet in height. Any boards used for this purpose shall be of a width not less than four (4) inches and spaced not more than one (1) inch apart, and shall be kept neatly painted. No scrap or salvage of any character, or parts, or machinery of any kind shall be allowed to remain outside, or extend over or through such fence. Entrance to the enclosure shall be by means of an opening not to exceed fifteen (15) feet in width, and provided with gates constructed in harmony with the style of the fence.

(Ord. No. 276, § 5, 6-11-79)

Sec. 10-120. Exception.

At the discretion of the City Council, and upon recommendation of the public health officer, exception may be made to the provision requiring the premises to be fenced on one (1) or more sides where application is made to the city in writing and it is shown that the granting of the exception will not violate the purpose and intent of the article and that undue hardship will be suffered by the operator unless such exception is granted. When application for exception is made, a public hearing before the City Council will be set by the city secretary at the earliest meeting of the City Council after the application is received. Notice of the hearing shall be at the sole cost and expense of applicant be published at least once in a newspaper distributed in the city; the first notice shall be published not less than ten (10) days prior to such hearing date. All exceptions granted by the City Council shall be recorded in the minutes of the City Council's proceedings.

(Ord. No. 276, § 6, 6-11-79)

Secs. 10-121--10-145. Reserved.

ARTICLE VI. TAXICABS*

***Cross reference(s)**--Traffic and vehicles, ch. 18.

State law reference(s)--Authority to license, etc., V.T.C.A., Local Government Code § 215.029.

Sec. 10-146. Definition.

The term "taxicab" as used in this article, means any automobile carrying passengers for hire, except motor buses or motor coaches operated by bus lines over designated routes in and through the city.

(Code 1977, § 20-20)

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 10-147. Penalty for violation.

Any person who violates any part of this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-15.

(Code 1977, § 20-37)

Sec. 10-148. Permit to operate business--Required; filing and contents of application; action by council.

(a) It shall be unlawful for any person, directly or indirectly, to engage in the taxicab business in the city without a lawful permit as herein provided.

(b) Before any person shall conduct a taxicab business in the city he shall file with the city secretary an application to the City Council for a permit to conduct such business. The application shall state the following:

- (1) The applicant's name, place of residence, length of residence, sex, age, customary occupation, the character and value of his assets, and whether any other person owns any interest in the business and what person owns any title or interest in any automobile to be used by the applicant in the conduct of the taxicab business for which such permit is requested.
- (2) The name, usual trade description, equipment, motor number, state license number, rated horsepower and factory number of the automobile or automobiles to be used in such business, and the year in which each automobile was

manufactured.

- (3) The stand or stands at which taxicabs will remain when not in actual service.
- (4) The rated seating capacity of each taxicab to be used by the applicant.
- (5) The person who will be in active charge and control of the taxicab business.
- (6) The amount of all fares proposed to be charged the public in the event such permit is granted.
- (7) If the applicant is a corporation, the name and place of residence of all of the officers of such corporation; the person who will be in active charge and control of the taxicab business; the amount of its capital stock and the amounts thereof fully paid up; the character and value of its assets, its liabilities and the security therefor. Such corporation shall file with its application a duly certified copy of its charter and bylaws, and if it be a foreign corporation, a duly certified copy of its permit to do business in the state.

(c) If the applicant for any permit under this article is an individual, before any permit is granted to him to operate a taxicab business, it shall be made to appear that such individual is a bona fide resident of this county preceding the date of the application, and is thoroughly familiar with the streets, driving hazards, and traffic regulations of the city; if the applicant for a permit is a partnership or a corporation, before any permit is granted, it must be made to appear that each person who will be in active charge and control of the affairs of the partnership or corporation is a bona fide resident of the county and has been such a resident preceding the date of filing the application, and is thoroughly familiar with the streets, driving hazards, and traffic regulations of the city.

(d) When an application for a permit to operate a taxicab business is filed with the city secretary, it shall be his duty to call the attention of the City Council thereto at the next meeting of the council, and the City Council shall make or cause to be made investigations, including any hearings deemed desirable as to whether or not the public convenience and necessity require the issuance of such permit and whether or not the applicant is fit to conduct such business. The City Council may investigate the fitness of the officers and stockholders of any corporation making such application, and, in determining whether or not a permit should be issued, the City Council shall give weight and due regard to, among other things:

- (1)** Probable permanence and quality of the service offered by the applicant;
- (2)** The financial responsibility of the applicant;

- (3) The experience of the applicant in the transportation of passengers;
- (4) The character and location of depots and terminal proposed to be used;
- (5) The character and number of taxicabs to be used;
- (6) The familiarity of the person to be in active charge and control of the taxicab business with the streets, driving hazards, and traffic regulations of the city; and
- (7) Whether public necessity, or convenience requires additional taxicab service.

(e) Upon consideration of such application, the City Council may grant or refuse to grant such permit, as in its discretion may seem to be to the best interest of the citizenship of the city and the public in general. No permit to operate a taxicab or taxicab business shall be granted hereunder unless, in the judgment and discretion of the City Council, the public convenience and necessity require that same be granted.

(Code 1977, § 20-21)

Sec. 10-149. Same--Form; assignability.

(a) Each permit for the conduct of a taxicab business in the city shall be issued and signed by the city manager, attested by the city secretary, and sealed with the seal of the city; it shall be dated on the date of its issuance; shall bear a serial number; shall show the name and address of the permittee and that the permittee has been authorized by the City Council to conduct a taxicab business in the city until the expiration date shown thereon, and that the permit is subject to cancellation at any time by the City Council. The permit shall be countersigned by the permittee, and shall evidence the agreement on the part of the permittee to pay the sums of money herein mentioned, and to in all things comply with all applicable laws and regulations regarding the business for which the permit is issued. Each permit shall show the number of vehicles to be operated thereunder, and a description of each vehicle. Each permit shall show the maximum amount that may be charged the public for the use of each taxicab.

(b) No permit issued under the provisions of this article shall be assignable.

(Code 1977, § 20-22)

Sec. 10-150. Same--Fees.

(a) Each operator of a taxicab business holding a permit under this article shall pay to the city an amount equal to two (2) percent of the gross receipts of each taxicab operated under such permit, such payments to be made as hereinafter provided. Such sum of two (2) percent shall be paid to the city to compensate the city for its superintendence of the taxicab business operated hereunder, and for the use of the streets, alleys, and public ways of the city.

(b) At the time of issuance of a permit, the permittee shall pay to the city a sum which is on file in the office of the city secretary and, in making subsequent monthly gross receipts payments, as herein provided, such permittee shall be allowed a credit for such sum so paid at the time of issuance of the permit.

(c) Each operator of a taxicab business holding a permit shall make and file a statement with the city secretary on the tenth day of each month stating under oath the gross receipts received during the preceding month from the operation of each taxicab, and such statement shall be accompanied by a check in an amount equivalent to two (2) percent of such gross receipts, except that, as stated above, credit shall be allowed for the lump sum payment made at the time of granting the permit.

(Code 1977, § 20-23)

State law reference(s)--Authority to levy gross receipts fees, Vernon's Ann. Civ. St. art. 6698.

Sec. 10-151. Same--Adding vehicles.

If at any time the holder of a taxicab permit shall desire to use any additional vehicles and has his application for such permit granted, he shall furnish to the city secretary the same information regarding such additional vehicles as is required in this article regarding those covered by the original permit, and shall pay to the city secretary the fee as herein provided.

(Code 1977, § 20-24)

Sec. 10-152. Same--Lapse for nonuse; cancellation for violation.

(a) Nonuse of any permit granted under this article or failure on the part of the holder of any permit under this article to use or exercise the rights, privileges, and franchises granted in such permit, or to comply with the conditions or duties prescribed herein for a period of thirty (30) days shall ipso facto operate as a cancellation of such permit and such permit shall thereupon become null and void and

of no effect.

(b) In the event of infraction of any provision of this article by the holder of any permit hereunder, or by anyone under the control or direction of such permittee, the same shall be cause for forfeiture of such permit by the City Council.

(Code 1977, § 20-25)

Sec. 10-153. Insurance.

Every holder of a permit to conduct a taxicab business in the city shall, at all times during the life of such permit, keep each and every vehicle operated by him under his permit insuring in a company authorized to do business in the state, indemnifying the permittee in the sum of at least three hundred thousand dollars (\$300,000.00) for each person and five hundred thousand dollars (\$500,000.00) for each accident for personal injury or death, and ten thousand dollars (\$10,000.00) for property damage resulting from any accident, through and by reason of the operation of such taxicab; such policies or certificates of insurance shall be approved by the city manager, and filed and left with the city secretary. The policy or policies of insurance shall not be cancelled or surrendered, except after ten (10) days' written notice to the city secretary. Failure of any permittee to procure and file the policy or policies of insurance as required by this section, or failure to keep same in full force, shall immediately forfeit and make null and void such permit, and all rights thereunder shall at once cease.

(Code 1977, § 20-26)

Sec. 10-154. Books and records.

Each operator of a taxicab business shall install and maintain at all times, within the city, in current condition, complete books and records in accordance with standard accounting practices.

(Code 1977, § 20-27)

Sec. 10-155. Inspection, etc., of business records, etc.

The city shall have the right, at all reasonable times and as often as desired, acting through the City Council or designated officers, attorneys, representatives, and agents, to inspect, review, audit, and examine all the books, records, income tax returns, and invoices of any permittee under this article, and to do

any other further thing or things necessary or proper to ascertain the gross receipts of the permittee during any particular period, and for any proper purpose in connection with the exercise by the City Council of its governmental powers and functions concerning the taxicab business.

(Code 1977, § 20-28)

Sec. 10-156. Lettering of vehicle.

Every holder of a permit granted under the terms of this article shall have and keep painted, in a color contrasting with the color of the vehicle, on each side of each vehicle used as a taxicab, the words: "TAXI. PERMIT NO. _____", filling in the blank with the figures denoting the serial number of his permit. The letters and figures shall not be less than five (5) inches high.

(Code 1977, § 20-29)

Sec. 10-157. Vehicle condition.

Every holder of a permit to conduct a taxicab business in the city shall have each taxicab used in this business inspected once each month, and shall file with the city secretary on or before the tenth day of each month a statement in writing signed by a competent resident mechanic showing that he has inspected such vehicle; the date of such inspection; the license number of such vehicle or vehicles; the name of the permittee and the serial number of his permit; and that the lights, brakes, and steering apparatus of all such vehicles so inspected by him are in good mechanical condition. The City Council may, at its discretion, designate a resident mechanic to perform the aforementioned inspection, in which case the permittee will be required to use such designated mechanic.

(Code 1977, § 20-30)

Sec. 10-158. Fares.

(a) The fare to be charged for the transportation of passengers shall be reasonable and subject to regulation by the City Council.

(b) In the event the holder of any permit to operate a taxicab business under this article, or any taxicab driver, shall charge any member of the public a sum of money for the use of a taxicab in excess of that stipulated in the permit under which such taxicab is operated, the same shall be cause for cancellation by the City Council of such permit.

(Code 1977, § 20-31)

Sec. 10-159. Taxicab driver's permit--Required.

It shall be unlawful for any person to drive or operate a taxicab within the city without first having applied for and obtained a taxicab driver's permit from the city, which permit may be issued by the city under such reasonable regulations as may be from time to time made by the City Council.

(Code 1977, § 20-32)

Sec. 10-160. Same--Permitting driving without.

It shall be unlawful for any holder of a permit to operate a taxicab business hereunder to allow or permit any person who does not hold a valid taxicab driver's permit from the city to drive or operate any taxicab on the streets or other public ways of the city.

(Code 1977, § 20-33)

Sec. 10-161. Cruising.

It shall be unlawful for any driver of any taxicab to drive or cruise about on the streets of the city seeking passengers who have not theretofore ordered or called for a taxicab.

(Code 1977, § 20-34)

Sec. 10-162. Transporting persons for unlawful purpose.

It shall be unlawful for the driver of a taxicab to transport, or offer to transport, or aid or assist in transporting, directly or indirectly, any person in, on, over or through the streets, alleys, or public ways of the city by means of a taxicab for the purpose of lewdness, assignation, prostitution, or for any other unlawful or immoral purpose.

(Code 1977, § 20-35)

Sec. 10-163. Parking restricted.

It shall be unlawful for the holder of any permit issued under the terms of this article, or the agent, servant, or the employee of such permittee to park or leave

standing any taxicab on the streets of the city except while loading and unloading passengers into and from such taxicab.
(Code 1977, § 20-36)

Cross reference(s)--Stopping, standing and parking regulations, § 18-151 et seq.

ARTICLE VII. GARAGE SALES

(Originally adopted by Ord. No. 486, §1, 11/8/99)

Sec. 10-200. Definitions.

(1) The term “garage sale” as used in this article, means a retail sale or an offer for retail sale of miscellaneous items of tangible personal property to the general public conducted upon residential property or within one hundred fifty feet (150') of the boundary of residential property. The term “garage sale” shall mean and include backyard sales, yard sales, porch sales, patio sales, and all other on-site sales by a person who does not hold him or herself out as being engaged in nor does that person habitually engage in the business of selling tangible personal property at retail.

(2) The term “occupant” as used in this article, means either the owner- occupant of the premises on which a garage sale is to be conducted or the tenant of the owner of that property, provided that the tenant is actually residing upon the premises. The term “occupant” shall include dependent members of the immediate family of any owner, occupant, or tenant.

(3) The term “residential property” as used in this article, means any lot within a platted subdivision or any other tract or lot used for residential purposes.

Sec. 10-201. Regulation of Garage Sales.

(a) It shall be unlawful for any person to conduct a garage sale on any residential property within the city prior to the expiration of one hundred twenty (120) days from the most recent garage sale conducted on that property.

(b) Only used and/or discarded property owned by the occupant and/or those jointly conducting the garage sale with the occupant may be offered for sale. The items offered for sale at a garage sale may originate from more than one person or household, it being expressly provided that consolidated block or neighborhood sales may be conducted under one license. It shall be unlawful for new

merchandise or merchandise purchased for the purpose of resale to be offered for sale at a garage sale.

(c) It shall be unlawful for any garage sale to continue for more than three (3) consecutive days.

(d) No garage sale may commence earlier than 7:00 a.m. nor may it continue later than 8:00 p.m.

Sec. 10-202. License and Fee.

Any person desiring to conduct a garage sale shall, at least forty-eight (48) hours prior to the sale, apply with the city manager for a license. The application shall set forth the name, age and address of the applicant, the dates and times during which the garage sale will be conducted, the location where the garage sale will be conducted, the dates of all previous garage sales conducted by the applicant within the preceding twelve (12) month period, the number and location of signs which will be posted advertising the garage sale, and an affirmative statement that the applicant has read the provisions of Article VII., Chapter 10 of the Code of Ordinances of the City of West Columbia, Texas, and agrees to comply with those provisions in the conduct of the garage sale. Upon receipt of an application, the city manager shall, upon determining that the applicant is in compliance with the terms and provisions of this article, issue a license for display at the site of and during the garage sale.

Sec. 10-203. Signs.

It shall be unlawful for any person to post, fix, erect, attach, or otherwise place any sign or other advertising with regard to the garage sale except as follows:

(1) The location of the sign must be designated on the application submitted to the city manager as provided in Sec. 10-202;

(2) The total number of signs permitted in connection with any single garage sale shall not exceed five (5);

(3) No garage sale sign may exceed two square feet in surface;

(4) All garage sale signs must be removed and properly disposed of no later than twenty-four (24) hours following the conclusion of the garage sale.

ARTICLE VIII. TOWING SERVICES

DIVISION 1. GENERALLY

Sec. 10-250. Definitions.

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

(1) **Consent Tow:** Any tow of a motor vehicle initiated by the owner or operator of the vehicle or by a person who has possession, custody, or control of the vehicle. The term does not include a tow of a motor vehicle initiated by a peace officer investigating a traffic accident or a traffic incident that involves the vehicle.

(2) **Motor Vehicle:** Every vehicle which is self-propelled.

(3) **Nonconsent Tow:** Any tow of a motor vehicle that is not a consent tow.

(4) **Owner:** Any person who holds the legal title of a motor vehicle or who has the legal right of possession thereof, or the legal right of said vehicle.

(5) **Street:** Any street, alley, public place, square or highway within the corporate limits of the City.

(6) **Tow Truck:** A motor vehicle, including a wrecker, equipped with a mechanical device used to tow, winch or otherwise move another motor vehicle.

(7) **Tow Truck Business:** The business of towing or removing disabled or wrecked vehicles on the public streets, regardless of whether the purpose of the towing is to remove, repair, wreck, store, trade or purchase such disabled or wrecked vehicles, excluding private garage towing for their clients.

(8) **Tow Truck Operator:** Any person, partnership, corporation or other entity engaged in the tow truck business.

(9) **Tow Truck Rotation List:** The rotation list of companies prepared and used as provided in section 10-263.

(10) **Tow Truck Selection Form:** Form for selection of a tow truck company, prepared and used as provided in sections 10-262 and 10-263.

(11) **Vehicle:** Every device in or by which any person or property is or may be transported or drawn upon a public highway except devices moved only by human power or used exclusively upon stationary rail or tracks, and shall include trailers and semi-trailers.

Sec. 10-251. Invitation of Tow Truck to Scene of Accident Required; Exception

No person shall drive a tow truck to or near the scene or situs of an accident or collision on the streets of the City, unless (a) in the case of a nonconsent tow, that person or the tow truck company employing that person has been called to the scene by the Police Department of the City; (b) in the event of a consent tow, that person or the tow truck company employing that person has been called to the scene by the owner of operator of the vehicle or by a person who has possession, custody or control of the vehicle (expressly excluding a peace officer investigating a traffic accident or incident which involves the vehicle); or (c) in the event it is necessary to prevent death or bodily injury to any person involved in an accident or collision.

Sec. 10-252. Tow Truck Prohibited From Following Accident Response Vehicles

No person operating a tow truck shall follow any ambulance or police car which is traveling on a public street in response to a report of an automobile collision or accident.

Sec. 10-253. Soliciting Business Prohibited: Evidence of Guilt

No person shall solicit in any manner, directly or indirectly on the streets of the City, the business of towing any vehicle which is wrecked or disabled on a public street, regardless of whether the solicitation is for the purpose of soliciting the business of towing, removing, repairing, wrecking, storing, trading or purchasing such vehicle. Proof of the presence of any person engaged in the tow truck business or the presence of any tow truck or motor vehicle owned or operated by any person engaged in the tow truck business, either as owner, operator, employee or agent, on any public street in the City, at or near the scene or situs of a wreck, accident, or collision within one (1) hour after the happening of such wreck, accident, or collision, shall be prima facie evidence of solicitation in violation of this section.

Sec. 10-254. Influence, etc., by Police as to Selection of Tow Truck Prohibited

No police officer investigating or present at the scene or situs of any wreck, accident, or collision on a public street shall, directly or indirectly, either by word, gesture, sign or otherwise, recommend to any person the name of any particular person engaged in the tow truck service or repair business; nor shall such police officer influence or attempt to influence in any manner the decision of any person in choosing or selecting a tow truck or repair service.

Sec. 10-255. Impoundment of Wrecked Vehicle

In the event of a nonconsent tow, any police officer, in the exercise of his discretion as a police officer, may direct that any vehicle shall be taken by the driver of the tow truck towing the vehicle directly to a bonded storage enclosure and there held by the City for inspection or investigation to determine the cause or reason for the accident such vehicle was involved in or such vehicle's disability or for any lawful purpose.

DIVISION 2. DESIGNATION OF TOW SERVICE

Sec. 10-260. Consent Tows

Unless the towing of a motor vehicle is necessitated by or arises out of a traffic accident or a traffic incident that involves the vehicle, in which event an investigating peace officer has exclusive authority to initiate a tow, the tow of a motor vehicle may be initiated by the owner or operator of the vehicle or by a person who has possession, custody or control of the vehicle.

Sec. 10-261. Duties of Investigating Officer at Scene of an Accident

When a police officer investigating an accident or collision determines that any vehicle which has been involved in a collision or accident upon a public street is unable to proceed safely under its own power, or when the owner thereof is physically unable to drive such vehicle, such officer shall request the owner to designate on the tow truck selection form, the tow truck company the owner desires to remove the vehicle. Such designation by the owner shall be indicated on such form by writing in the blank space provided, the name of the company selected and the form, when completed, shall be signed by the owner. The police officer shall give a copy of the authorization form to the owner and shall retain for the City's record the original. Upon leaving duty on the same day, the police officer shall place such original in the police department file on the incident to which the authorization relates. When the owner has designated the tow truck business desired, the police officer shall communicate that fact immediately to the police department headquarters. It shall be the duty of the officer receiving such information at headquarters to call the designated company to send a tow truck to the scene of the accident or collision.

Sec. 10-262. Wrecker Selection Form; Contents

The Chief of Police shall cause a tow truck selection form to be prepared which shall:

(1) Contain a statement by the owner of the disabled vehicle designating the tow truck business (provided the tow truck business must be one which holds both a business permit and a truck permit under this article, to the extent those permit requirements are applicable) which he desires to remove the disabled vehicle and the place to which he desires such vehicle to be removed in blank spaces indicated;

(2) Contain a statement authorizing any police officer to call the designated tow truck business to remove the disabled vehicle;

(3) Contain a statement in the alternative that the owner has no preference as to a tow truck business and authorizes any police officer to call the tow truck business next in line on the tow truck rotation list maintained at the police headquarters, and a statement that he desires the vehicle to be removed to the place designated by him in a blank space therein; and

(4) Provide space for signature of the owner of the vehicle.

Sec. 10-263. Wrecker Rotation List, Use By Police

(a) If the owner of a vehicle involved in an accident or collision is physically unable to designate the tow truck business desired, or if such owner has no preference as to tow truck business, or if the owner refuses to designate a tow truck company, the investigating officer shall communicate such fact to the police department headquarters. The police department shall keep a master tow truck rotation list, in alphabetical order, of all tow truck businesses with tow trucks which maintain a place of business within the City and its extra-territorial jurisdiction and which:

- (1)** Have been issued a permit under this article.
- (2)** Have applied to be placed on such list.
- (3)** Maintain twenty-four hour tow truck service that is available through direct phone contract without the use of pagers and/or answering machine.

(b) In addition to the minimum requirements for such tow trucks the owner/driver of such tow trucks must:

- (1)** Be able to respond to any site in this City within a twenty-minute response time.
- (2)** Use storage facilities within a five-mile radius of the city hall, or within the City limits.

(c) The tow truck rotation list shall consist of two (2) sections, the first consisting of those tow truck businesses which maintain a place of business within the City (the "Primary List") and the second consisting of those which maintain a place of business within the extra-territorial jurisdiction of the City (the "Secondary List").

(d) Failure of a tow truck company to meet the twenty-minute response time shall result in a warning for the first failure. Upon the second failure in the same calendar year, the tow truck business and its owner and tow truck shall be suspended from the tow truck list for a period of three (3) months. Each succeeding failure shall result in succeeding three-month suspensions.

(e) Upon receiving communication from an investigating officer the police officer receiving such communication at police headquarters shall call the first tow truck business on the Primary List to tow the disabled vehicle and remove the same from the public streets of the City to the place designated by the owner, or to a bonded enclosure. If the first tow truck business on the Primary List is unable or unwilling to tow the vehicle, then the next tow truck business on the Primary List shall be called, continuing until a tow truck business tows the vehicle. In the event none of the tow truck businesses on the Primary List are able or willing to respond to the call and tow the vehicle in question, then the police officer receiving the communication at police headquarters shall call the first tow truck business on the Secondary List to tow the disabled vehicle and continue in the same manner with the Secondary List until a tow truck business tows the vehicle.

(f) Upon receiving notification of call by the police department, the tow truck business or tow truck driver must either accept or decline the tow truck call, and must not transfer the call to another tow truck service. Each tow truck business shall execute an agreement to hold

the City harmless from any and all claims arising from the performance of tow truck business in connection with such listing upon a tow truck rotation list.

Sec. 10-264. Determination of Order on Rotation List

(1) Each tow truck business which is called on a non-consent tow, whether it responds or not and whether it makes the tow or not, shall, in the order called, be moved to the last place on the list on which it appears, whether primary or secondary, and each other tow truck business shall be moved up the corresponding number of positions on the list, whether primary or secondary. Proper notification of each such call shall be made on the rotation list.

(2) In the event the operator who is summoned to tow the disabled vehicle and remove the same for the public of the streets of the City either—

- (a) fails or refuses to respond to the call by arriving at the scene of the accident with his tow truck within twenty (20) minutes of the issuance of the call; or
- (b) either fails or refuses or is otherwise unable to tow and remove the vehicle from the scene within one (1) hour after the police officer at the scene of the accident has authorized and directed the removal of the wrecked vehicle,

then in either of such events, that operator shall, at the request of the police officer summoning such operator, remove his tow truck from the scene and the police officer in question shall then summon the next tow truck operator on the week's rotation list.

Sec. 10-265. Tow Truck Operator Records

(a) Every tow truck operator qualified for and whose name appears at its request on the tow truck rotation list shall maintain at its garage or storage location as provided above records as to all vehicles removed by it after being notified to do so by the personnel of the City police department in accordance with the provisions of this chapter.

(b) The records required to be kept by subparagraph (a) shall contain the following information:

- (1) Make, model and serial number of disabled automobile moved by the operator;
- (2) Location of disabled vehicle from which it was removed and time of removal;
- (3) Total amount charged for towing;
- (4) Storage rate per day; and
- (5) An inventory of the vehicle. It shall be the obligation of the police officer investigating the accident in question to prepare an inventory list in duplicate on which is noted a description and the

disposition of all personal property located within the disabled vehicle and a description of all damage to the vehicle at the time of its removal, which list shall be signed by both the police officer and the tow truck operator, with the tow truck operator to receive at the scene of the accident one of the duplicate inventory lists and the officer to retain the other. The inventory list in question shall be prepared in the presence of the tow truck operator and shall include any and all items which either the tow truck operator or the police officer request.

The above described records shall be preserved by the tow truck operator for at least three (3) months from and after the date said operator came into possession of the disabled vehicle.

(c) The records required to be kept by the provisions of subparagraph (b) shall be made available to the members of the City police department by the tow truck operator at any reasonable time.

DIVISION 3. TOW TRUCK BUSINESS PERMIT

Sec. 10-270. Permit Required

Every tow truck business desiring to perform non-consent tows within the City, and every tow truck business having a place of business within the City or its extra-territorial jurisdiction desiring to perform consent tows in the City, shall first obtain a permit to engage in such business. It shall be unlawful to engage in the tow truck business (except for consent tows performed by tow truck businesses having no place of business within the City or its extraterritorial jurisdiction) within the City without first obtaining a permit. Each permit issued shall indicate whether it is valid for nonconsent tows only, consent tows, or for both.

Sec. 10-271. Application

Any person desiring a permit required by the provisions of this ordinance shall file a sworn written application therefor with the Chief of Police, which such application shall contain the following:

- (a) The name and address of the applicant and all drivers.
- (b) The number of tow trucks proposed to be operated by applicant, and the motor vehicle identification and Texas license number of each such tow truck.
- (c) The address and telephone number of the business location from which applicant will operate such tow truck business, if he secures a permit.
- (d) The types of tow truck equipment which he proposes to place in operation.

(e) Whether the applicant has available space for properly accommodating and protecting all disabled motor vehicles to be removed by him from the places where they are found disabled.

(f) Whether the applicant desires his name to appear on the tow truck rotation list.

(g) The name of the true owner of the company concerned.

(h) Such other information as the Chief of Police shall find reasonably necessary to effectuate the purpose of this article and to arrive at a fair determination of whether the terms of this article have been complied with.

Sec. 10-272. Fees

At the time of the application for a permit to be issued under the provisions of this article is filed with the City Secretary, the applicant therefor shall pay a fee of Twenty-Five and No/100 Dollars (\$25.00) for each tow truck proposed to be operated in the City thereunder. If application after July 1st, the first year shall be prorated and fee will be Twelve and 50/100 Dollars (\$12.50). Such a fee shall not be returned to the applicant in the event the permit is refused.

Sec. 10-273. Liability Insurance Required

No permit shall be issued under the provisions of this article unless the applicant therefor shall procure and keep in full force and effect a policy of policies of public liability and property damage insurance issued by a casualty insurance company authorized to do business in the State and in the standard form approved by the State Board of Insurance Commissioners, with the insured provisions of said policy or policies including the City as an insured, and the coverage provisions insuring the public from any loss or damage that may arise to any person or property by reason of the operation of a tow truck of such operator and providing that the amount of recovery on each tow truck shall be in limits of not less than the following sums:

- (1) For damages arising out of bodily injury to or death of one person in any one accident\$ 250,000.00
- (2) For damages arising out of bodily injury to or death of two or more persons in any one accident.....\$500,000.00
- (3) For injury to or destruction of property in any one accident.....\$100,000.00

Sec. 10-274. Local Telephone Number Required

No permit shall be issued under the provisions of this article unless the applicant shall have and maintain a local exchange telephone number for the convenience of the citizens of the City.

Sec. 10-275. Storage Enclosure Required

No permit shall be issued under the provisions of this article unless the tow truck shall have the use of a locked enclosure to store wrecked, disabled or impounded motor vehicles. Such enclosure shall be of the wire mesh type, at least five feet (5') high. Such enclosure shall have affixed to the fence at the entrance a sign indicating the name, address and telephone number of the person in charge thereof. Such enclosure, if of the open type, shall be adequately lighted at night. The enclosure mentioned above may be a completely enclosed building. Regardless of the type of enclosure provided, it must include a completely enclosed building capable of storing at least two (2) vehicles and further capable of being securely locked.

Sec. 10-276. Issuance

The City Secretary shall issue a permit under the provisions of this article to all applicants complying with the provisions of this article.

Sec. 10-277. Revocation

The City Council shall revoke any permit issued under the provisions of this article when it finds any of the following:

(a) Their permit was procured by fraudulent conduct or false statement of a material fact in the written application; or

(b) The permit holder has violated within the City limits any applicable provision of this Code, State law or City ordinance, rule or regulation.

DIVISION 4. VEHICLE PERMIT

Sec. 10-287. Required; Contents; Term

In addition to a permit authorizing a person to engage in the tow truck business there shall also be issued a permit for each approved tow truck vehicle owned by the permittee used in the tow truck business to make nonconsent tows. Each permit for a tow truck shall state that such tow truck has been inspected and approved under the direction of the Chief of Police, and shall be affixed securely to the inside of the windshield of the appropriate tow truck. No person shall operate a tow truck on the public streets of the City unless a certificate of registration to engage in the tow truck business has been issued by the State to the owner of such tow truck. Additionally, no person or tow truck owner shall engage in the nonconsent tow truck business within the boundaries of the City without applying for, paying the fee and receiving the permit described in section 10-172. No permit shall be transferrable, and every permit shall expire at midnight on December 31 of the calendar year in which issued, unless sooner revoked by the City for failure to maintain the standards established by this article.

Sec. 10-288. Prerequisite to Operation; Display on Windshield Mandatory

No person shall operate a tow truck for nonconsent tows on the public streets of the City unless an inspection permit for such tow truck has been issued for such vehicle by the Chief of Police, and no person shall operate a tow truck for nonconsent tows on the public streets of the City unless the permit duly issued to such tow truck is posted on the windshield of such tow truck. No person shall operate a tow truck for nonconsent tows on the public streets of the City with an invalid inspection permit displayed or with an inspection permit that has been revoked for breach of the standards established by this article or for breach of the provisions of this article.

(Ord. No. 515, § 10(250-281), 5-12-03)