# THE ANNA CITY
# CODE OF ORDINANCES

# PART II
# (GENERAL ORDINANCES)

*Current through February 12, 2013*

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## Article 1 CONSTRUCTION OF THE CODE

### Section 1. Designation, Citation and Purpose of Code

(a) Aside from the City of Anna, Texas Home-Rule Charter, the ordinances and other provisions embraced in this codification of the City of Anna's ordinances shall be known and cited as "The Anna City Code of Ordinances," and once cited in a document or proceeding may then be abbreviated as the "Anna Code." Within said codification, the title may be abbreviated as "Code."

(b) The purpose of this Code is to make the law encompassed by this Code more accessible and understandable, by:

(1) rearranging ordinances into a more logical order;

(2) employing a format and numbering system designated to facilitate uniform citation of the law and to accommodate further expansion of the law; and

(3) eliminating repealed, duplicative, expired, and other ineffective provisions.

### Section 2. Definitions and Rules of Construction

(a) In the construction of this Code, and 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.

(b) *Charter* means the City of Anna, Texas Home-Rule Charter as it now exists or as it may be amended in the future.

(c) *City* means the City of Anna, Collin County, State of Texas.

(d) *City Council* means the City of Anna, Texas City Council.

(e) *Code* means The Anna City Code of Ordinances.

(f) *County* means Collin County, Texas unless otherwise specified.

(g) Words of one gender include the other gender.

(h) Numbers. The singular includes the plural, and the plural includes the singular.

(i) Officer, employee, department, board, commission, agency. The title of an officer, employee, department, board, commission or agency shall be construed as if followed by the words "of the City of Anna, Texas", unless specifically indicated otherwise.

(j) The words "or" may be read "and," and "and" may be read "or," if the sense requires it.

(k) Person. The term "person" includes an individual, company, joint stock company, firm, proprietorship, business, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, co-partnership, association, and any other legal entity or their legal representatives, agents or assigns. Notwithstanding any other provision of the Code, each and every Code provision—including but not limited to every prohibition, requirement, and penalty—applies to both natural persons and corporations, partnerships, and all other legal entities or organizations whether or not referenced in this paragraph, and each provision of the Code must be read to incorporate this sentence as if set forth in full therein.

(l) *Public Place* means any public road, street, alley, park, building or other property of the City or any other places to which people commonly resort for the purpose of business, recreation or amusement.

(m) The words "shall" and "must" are mandatory; the word "may" is permissive.

(n) The words "the state" or "this state" mean the State of Texas.

(o) The letters "T.A.C." mean the Texas Administrative Code.

(p) Tense. Words used in the past or present tense include the future as well as the past and present unless the context specifically indicates otherwise.

(q) *Tex. Gov't Code* means Texas Government Code.

(r) *Tex. Local Gov't* Code means Texas Local Government Code.

### Section 3. Titles and Headings

The titles or headlines of the several parts, articles, sections and subsections of this Code are intended to merely suggest the general content of the provisions that follow and do not change the meaning of such provisions. No provision of this Code shall be held invalid by reason of deficiency or interpretation of any such title or heading.

### Section 4. History Notes

The history notes appearing in parentheses after sections in this Code are not intended to have any legal effect but are merely intended to indicate the source of matter contained in the sections.

### Section 5. Editor's Notes and References

The editor's notes, Charter references, state law references and ordinance references in this Code are not intended to have any legal effect but are merely intended to assist the user of this Code.

### Section 6. Internal References

A reference to a part, article, section or subsection without further identification is a reference to the part, article, section or subsection of this Code in which the reference appears.

### Section 7. Reference to Ordinance Revised by Code

A reference in an ordinance or a part of an ordinance revised by or incorporated into this Code is considered to be a reference to the part of this Code that revises or incorporates that ordinance or part of the ordinance.

### Section 8. Code Does Not Affect Prior Offenses, Rights or Other Acts

Nothing in this Code or the ordinance adopting this Code affects 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 this Code.

### Section 9. Amendments or Additions to Code

(a) All ordinances passed subsequent to the adoption of 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 inclusion herein. 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. Any and all additions and amendments to this Code, when passed in such form as to indicate the City Council's intention City Council to make them a part of this Code, are incorporated into this Code as of the effective date of such ordinances, so that a reference to the Code shall be understood and intended to include such additions and amendments.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specified reference to the section number of this Code in the following language:

> "That section _____, of The Anna City Code of Ordinances is amended to read as follows: . . . ." The provisions may then be set out in full as desired, with deletions indicated by text that is struck through and additions indicated by underlined text.

(c) If a new section not heretofore existing in the Code is to be added, the following language may be used:

> "That article _____ of The Anna City Code of Ordinances, is amended by adding a new section _____, which section shall read as follows: . . . ."

(d) If it is desired to delete a section from The Anna City Code of Ordinances, the following language may be used:

> "That section _____, of The Anna City Code of Ordinances is deleted from such Code."

(e) It is hereby provided, however, that any subsequent ordinance which fails to amend this Code in the manner provided for in this section, shall not be deemed invalid as a result of such failure to follow the procedure outlined in this section.

**Section 10. Supplementation of Code**

(a) Supplements to this Code shall be prepared and printed whenever authorized or directed by the City Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the City Council during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement. In preparing a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission of such portions from the reprinted pages.

(b) When preparing a supplement to this Code, the codifier (meaning the person, agency, or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:

(1) Organize the ordinance material into appropriate subdivisions;

(2) Provide appropriate titles and headings for sections and other subdivisions of the Code printed in the supplement, and make changes in such titles and headings;

(3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;

(4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this section," "this subsection," "this article," "this division," etc., as the case may be; and

(5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

**Section 11. General Penalty for Violations of Code or Ordinances**

(a) Whenever in this Code or in any ordinance of the City an act is prohibited or is made or declared to be unlawful, an offense or a misdemeanor, or wherever in such Code or ordinance the doing of an act is required or the failure to do any act is declared to be unlawful, and no specific penalty is provided therefor, the violation of any such provision of this Code or any such ordinance shall be punished by a fine of not exceeding $500.00, except for:

(1) violations of municipal ordinances that govern fire safety, zoning, public health and sanitation, including dumping of refuse, in which case the maximum fine shall be $2,000.00 for each offense; and

(2) violations of traffic laws and ordinances which are punishable as a class C misdemeanor shall be punished by a fine not to exceed $200.00.

(b) No penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.

(c) Each day any violation of this Code or of any ordinance shall continue shall constitute a separate offense.

(d) The imposition of any fine or penalty set forth in this Code or elsewhere is in addition to and in no way precludes any other legal actions or remedies available to the City at law or in equity, including but not limited to redress in courts at law or equity for legal, equitable or injunctive relief or relief available from any administrative body or agency.

**Section 12. Severability of Parts of Code**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Code are severable and, if any phrase, clause, sentence, paragraph, or section of this Code, or its application to any persons or circumstances, shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Code or their application, since the same would have been enacted by the City Council without the incorporation in this Code of any unconstitutional or invalid phrase, clause, sentence, paragraph, provision, subsection, or section.

**Section 13. Miscellaneous Actions and Ordinances Not Affected by Code**

(a) Nothing in this Code or the ordinance adopting this Code shall affect:

(1) any events or act committed or done, or any penalty or forfeiture incurred, or any contract or right established or occurring before the effective date of this Code;

(2) 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;

(3) any contract or obligation assumed by the City;

(4) any right or franchise granted by the City;

(5) any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, vacating, or affecting the right-of-way of any street or public way in the City;

(6) any ordinance relating to municipal street maintenance agreements with the state;

(7) any appropriation ordinance or ordinance providing for the levy of taxes or for adoption of an annual budget;

(8) any ordinance relating to local improvements and assessments therefor;

(9) any ordinance annexing territory to the City or discontinuing territory as a part of the City;

(10) any ordinance establishing or authorizing subdivision regulations or dedicating or accepting any plat or subdivision in the City;

(11) any ordinance pertaining to the calling of municipal elections and appointing of election officers;

(12) any ordinance adopting personnel policies, procedures, rules and regulations;

(13) any ordinance establishing rates to be charged by privately or semipublicly owned utility companies;

(14) any ordinance amending zoning districts or regulations, approving planned development districts, or pertaining to the issuance of specific use permits or the granting of variances; or

(15) any ordinance establishing or amending a fee schedule.

(b) All such actions and ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

## Article 2 Reserved

## Article 3 ALCOHOLIC BEVERAGES

**Section 1. Definitions**

To the extent that words or phrases used in this article are defined in the Texas Alcoholic Beverage Code, such words or phrases shall have those same definitions. All other words or phrases shall be defined according to their ordinary meaning, unless specified otherwise.

**Section 2. Permit Required; Associated Requirements and Procedures**

(a) It shall be unlawful for any person to manufacture, distill, brew, import, transport, store for purposes of sale, distribute or sell any alcoholic beverage within the City without having first paid an annual permit fee to the City equal to one-half of the State of Texas fee required by the Texas Alcoholic Beverage Code ("TABC") of every person that may be issued any permit or license or renew such permit or license by the State for the manufacture, distilling, brewing, importing, transporting, storing, distributing or sale of any alcoholic beverage. Except as otherwise set forth in this section, the permit fee shall be paid to the City Secretary upon original application and then annually for permit renewal. The City Secretary shall issue a receipt for the permit fee and keep a record of same in the City Secretary's office. All receipts issued for the payment of permit fees under the provisions of this section shall terminate at midnight on the day before the anniversary date of their issuance, and no receipt shall be issued covering a longer period than one year.

(b) Notwithstanding subsection (a), the permit fee for a mixed beverage permit shall not be charged for an original application and shall not be charged for the first two annual renewals. For the third annual renewal of a mixed beverage permit, and for all subsequent renewals thereafter, a permit fee shall be charged in accordance with subsection (a).

(c) Before the City Secretary shall sign any application for a permit or license regulated under the TABC, or any annual renewal, such application shall be submitted to the appropriate City departments, as determined by the City Manager to ensure that the application complies with all City ordinances and regulations and are for establishments located in a wet area.

(d) An annual processing fee in the amount of $250.00 shall be charged by the City Secretary for accepting any application or renewal. The City Secretary shall issue a receipt for the processing fee and keep a record of the same in the City Secretary's office. All receipts issued for the payment of processing fees under the terms of this section shall terminate at midnight on the day before the anniversary date of their issuance, and no receipt shall be issued covering a longer period than one year.

*(Ord. No. 590-2012, adopted 08/28/12; Ord. No. 482-2009, adopted 01/27/09; Ord. No. 108-2003, adopted 09/09/03); cross reference: Part III-C, Section 34.12.*

**Section 3. Regulations for Sale of Beer for On-Premises Consumption**

(a) To the extent that an employee of an establishment serves beer to the public for on-premises consumption, such employee must have a current food handler certificate.

(b) No person other than the permittee or licensee for an establishment that serves beer to the public for on-premises consumption may do so unless the person so serving is employed by the permittee or licensee of such establishment.

(c) No person serving beer to any patron or customer of such establishment shall receive, as compensation, any part of the price paid by the patron or customer for such beer, nor shall his or her compensation be dependent on the amount of beer served.

*(Ord. No. 590-2012, adopted 08/28/12; Ord. No. 184-2005, adopted 02/12/05)*

**Section 4. Regulations for Drive-Through Sales**

(a) An establishment licensed for the retail sale of beer for off-premise consumption—and which has at least 6,000 square feet of indoor retail space—may utilize a window located on an exterior wall of the establishment. Otherwise, no establishment may sell beer for off-premise consumption through a window or any other apparatus that does not require the purchaser to enter the interior of the establishment in order to purchase beer.

(b) For purposes of this section a "window or any other apparatus" does not include a doorway or other opening to the establishment that is large enough to allow and does allow motor vehicles to enter or exit any part of the establishment."

*(Ord. No. 590-2012, adopted 08/28/12; Ord. No. 385-2008, adopted 06/10/08)*

## Article 4 ANIMALS

### Section 1. Animals – Generally

#### 1.01 Definitions

For the purposes of this Article, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in this Article shall be given their common and ordinary meaning.

*Animal* means any live, vertebrate creature, Domestic or wild, including but not limited to, Dogs, Cats, pigs, horses, birds, fish, mammals, reptiles, fowl, and Livestock, but specifically excluding human beings.

*Animal Control Authority* means Collin County Animal Control Authority or another municipal or county animal control office with authority over the area in which an Animal is kept or the Collin County Sheriff's Office in any area that does not have an animal control office.

*Animal Control Officer* means any Person(s) designated by the City Council or City Manager, through written agreement or otherwise, to enforce the provisions of this Article and who is authorized to receive reports of Animal bites, investigate bite reports, administer euthanasia, ensure Quarantine of suspect rabid Animals, and otherwise carry out provisions of the ordinances of Anna and the laws of the State of Texas that relate to Animals, including, without limitation, Rabies control and eradication.

*Animal Nuisance* means any Animal that physically molests passers-by or passing vehicles, attacks other Animals or Persons, trespasses on school grounds, roams At Large, damages public or private property, or creates a noise disturbance in an excessive, continuous or untimely fashion.

*Animal Registration Agency* means any entity requiring registration of any Animal including Collin County Animal Control Authority or another municipal or county animal control office with authority over the area where a Dangerous Wild Animal is kept or the Collin County Sheriff's Office in any area that does not have an animal control office.

*Animal Shelter* means a facility operated by the Collin County Animal Control Authority or the City of Anna or its agents or designees for the purpose of impounding or caring for Animals held under the authority of this Article or State or Federal laws.

*Anna* means the City of Anna, Texas.

Assistance Animal or Therapy Animal means an Animal that is specially trained or equipped to help a human being who is diagnosed by a licensed physician with a physical challenge or emotional disorder.

*At Large* means an Animal, including fowl or Livestock, not in a Secure Enclosure or not completely confined by a building, wall, pen or fence of sufficient strength of construction to physically restrain the Animal on the premises behind the front building line of the Owner or Custodian; or an Animal off the premises of the Owner or Custodian that is not under the physical restraint of the Owner or Custodian or any other Person authorized by the Owner to care for the Animal by leash, cord, chain, or rope.

*Board* means the appropriate Board or Council of the Department.

*Cat* means a domesticated Animal that is a member of the feline family; felis catus.

*Commissioner* means the Commissioner of the Department.

*Currently Vaccinated* means Vaccinated and satisfying the following criteria:

(1) the Animal must have been at least four months of age at the time of vaccination;

(2) at least 30 days have elapsed since the initial vaccination; and

(3) no more than 12 months have elapsed since the most recent vaccination.

*Custodian* means any Person or agency that feeds, shelters, Harbors, has possession or control of, or has the responsibility to control an Animal.

*Dangerous Dog* means a Dog that:

(1) makes an unprovoked attack on a Person that causes bodily injury and occurs in a place other than an enclosure in which the Dog was being kept and that was reasonably certain to prevent the Dog from leaving the enclosure on its own; or

(2) commits unprovoked acts in a place other than an enclosure in which the Dog was being kept and that was reasonably certain to prevent the Dog from leaving the enclosure on its own and those acts cause a Person to reasonably believe that the Dog will attack and cause bodily injury to that Person.

*Dangerous Wild Animal* means:

(1) a lion;

(2) a tiger;

(3) an ocelot;

(4) a cougar;

(5) a leopard;

(6) a cheetah;

(7) a jaguar;

(8) a bobcat;

(9) a lynx;

(10) a serval;

(11) a caracal;

(12) a hyena;

(13) a bear;

(14) a coyote;

(15) a jackal;

(16) a baboon;

(17) a chimpanzee;

(18) an orangutan;

(19) a gorilla; or

(20) any hybrid of an Animal listed in this definition.

*Department* means the Texas Department of State Health Services.

*Dog* means a domesticated Animal that is a member of the canine family; or, canis familiaris.

*Domestic* when referring to an Animal, includes all commonly accepted domesticated species of Animals adapted to live in intimate association with human beings for the advantage of humans.

*Domestic Fowl* means birds raised commercially or domestically for meat, eggs, and feathers including chickens, ducks, turkeys, geese, guineas, squabs, and other domestic fowl of the same approximate size and weight.

*(Ord. No. 450-2009, adopted 06/23/09)*

*Euthanize* means ending the life of a suffering, injured, contagious, or sick Animal by utilizing a humane, painless method or a method required by any State or Federal law, as it currently exists or may be amended.

*Harbor* means the act of keeping and caring for an Animal or of providing a premise or other location to which the Animal returns for food, shelter or care for a period of three consecutive days. This definition excludes the feeding of local or migratory birds (Domestic or wild) on public or private property.

*Harborer* means a Person who Harbors an Animal.

Impoundment means the seizing, taking, collecting, confining, or capturing of an Animal.

*Licensed Veterinarian* means a person licensed by the Texas State Board of Veterinary Medical Examiners to practice veterinary medicine or a person practicing veterinary medicine on an installation of the armed forces or National Guard located in the State of Texas.

*Livestock* means an Animal raised for human consumption or an equine Animal, including exotic Livestock as defined by Section 161.001, Agriculture Code.

*Large Livestock* means horses or any member of the domesticated horse family, including but not limited to, mules, donkeys and ponies; all types and varieties of cattle; alpacas, and other Animals of the same approximate size and weight.

*Small Livestock* means all types of domesticated sheep, lambs, goats, and other Animals of the same approximate size and weight.

*(Ord. No. 450-2009, adopted 06/23/09)*

*Low Risk Animals* means Animals that have a low probability of transmitting Rabies, including, but not limited to: rats, mice, squirrels, gophers, beavers, prairie dogs, muskrats, nutria, jackrabbits, cottontails, swamp rabbits, opossums, shrews, moles, armadillos, or any Animals of the orders Rodentia, Lagomorpha, Didelphimorphia, Insectivora or Xexnarthra.

*LHA* means Local Health Authority.

*LRCA* means Local Rabies Control Authority. NOTE: The Animal Control Authority shall serve as the LRCA and is authorized to enforce this Article, receive reports of Animal bites/scratches, investigate bite/scratch reports, ensure Quarantine of possible rabid Animals, ensure Quarantine of biting/scratching Animals, and otherwise carry out provisions of the Texas Health & Safety Code, Chapter 826, as it currently exists or may be amended, to control and eradicate Rabies.

*One Enclosure* means any and all connected buildings, whether under one roof or otherwise, and buildings and sheds that may have entrances to the same or adjoining lot or lots with a gateway or other opening between them.

*Owner* means a Person who owns or has custody or control of an Animal; or, any Person who owns, Harbors, or has custody or control of a Dangerous Wild Animal.

*Person* means an individual, partnership, corporation, trust, estate, joint stock company, foundation, or association of individuals.

*Pet Animal* means includes Domestic Dogs, Domestic Cats, Domestic ferrets, rabbits, rodents, birds, reptiles, and any other species of Animal that are customarily sold or retained as a household pet, but shall not include swine and wild Animals—such as, among others—skunks, squirrels, coyotes, foxes, opossums, bats, non-human primates, and any other species of wild, poisonous or carnivorous Animal that may be further restricted in this Article or regulated by any State or Federal law, as it exists or may be amended.

*Police Dog* means a Domestic Dog that is owned or employed by a governmental law enforcement agency.

*Primary Enclosure* means any structure used to immediately restrict an Animal to a limited amount of space, including a cage, pen, run, room, compartment, hutch, or structure approved by the LRCA, or his/her designee.

*Quarantine* means strict confinement of an Animal specified in an order of the Board or its designee:

(1) on the private premises of the Animal Owner or at a facility approved by the Board or its designee; and

(2) under restraint by closed cage or paddock or in any other manner approved by Board rule.

*Rabies* means an acute viral disease of man and Animal affecting the central nervous system and usually transmitted by an Animal bite.

*Secure Enclosure* means a fenced area or structure that is:

(1) locked;

(2) capable of preventing the entry of the general public, including children;

(3) capable of preventing the escape or release of a Dog or any other Animal;

(4) clearly marked as containing a Dangerous Animal; and

(5) in conformance with the requirements for enclosures established by the Animal Control Authority.

*Serious Bodily Injury* means an injury characterized by severe bite wounds or severe ripping and tearing of muscle that would cause a reasonably prudent Person to seek treatment from a medical professional or would require hospitalization without regard to whether the Person actually sought medical treatment.

*Stray* means the condition of having no identifiable Owner, Custodian, or Harborer and/or being a public nuisance.

*Supervisor of Animal Control* means the Person designated by the City Manager or Animal Control Authority to supervise all aspects and operations of the control of Animals under this Article.

*Vaccinated* means properly injected with an approved Rabies vaccine, licensed for use in that species by the United States Department of Agriculture (USDA), and administered by a Licensed Veterinarian.

**1.02 Rabies Control**

(a) Vaccination of Animals Capable of Transmitting Rabies

(1) Every Owner and/or Custodian of a Domestic Dog, Domestic Cat, and/or all Animals capable of transmitting Rabies shall:

(i) have the Animal(s) Vaccinated against Rabies by the time the Animal(s) is four months of age;

(ii) have a booster administered within 12 months following the initial vaccination; and

(iii) have a booster administered once every 36 months thereafter or as prescribed by the Department.

(2) The Rabies vaccine must be approved by the USDA and administered by a Licensed Veterinarian, who shall issue to the Owner of the Animal a vaccination certificate in accordance with this Article. The Owner shall retain such certificate of the vaccination until the date of its expiration.

(3) Every Person who is an Owner and/or Custodian of a Domestic Dog, Domestic Cat, or any other Animal capable of transmitting Rabies and who is relocating to a residence in the corporate limits of Anna—or within 5,000 feet of Anna's corporate limits—from a location outside of Anna shall be in compliance with this Article no later than 30 days after having moved into Anna. If the relocated Animal—other than a Low Risk Animal—inflicted a bite and/or scratch on any Person or another Animal within the last 10 days before the Animal has been relocated, the Owner and/or Custodian of said Animal shall report the bite and/or scratch incident to Animal Control and arrange for a 240-hour Observation Period. No Rabies vaccine shall be administered before or during the 240-hour Observation Period.

(b) Certificate of Vaccination

(1) Upon vaccination with an approved Rabies vaccine, a Licensed Veterinarian shall execute and furnish to the Owner of the Animal as evidence thereof, a certificate upon a form furnished by the Licensed Veterinarian. The Licensed Veterinarian shall retain a duplicate copy. Such certificate shall contain at least the following information:

(i) the current name, address and telephone number of the Owner of the Vaccinated Animal;

(ii) the date of vaccination;

(iii) the date vaccination expires (re-vaccination due date);

(iv) the type of Rabies vaccine used, expiration date of the serum, and serial number;

(v) the year and number of Rabies tag to be worn by the Vaccinated Animal at all times;

(vi) the breed, age, color, and sex of the Vaccinated Animal; and

(vii) the Licensed Veterinarian's signature and license number or signature stamp and license number.

(c) Confidentiality of Certain Information in Rabies Vaccination Certificate; Criminal Penalty.

(1) Information contained in a Rabies vaccination certificate or in any record compiled from the information contained in one or more certificates that identifies or tends to identify an Owner or an address, telephone number, or other personally identifying information of an Owner of a Vaccinated Animal is confidential and not subject to disclosure under Chapter 552, Texas Government Code.

(2) Said information may be disclosed only to a governmental entity for purposes related to the protection of public health and safety. A governmental entity that receives the information must maintain the confidentiality of the information, may not disclose the information under Chapter 552, Texas Government Code, and may not use the information for a purpose that does not directly relate to the protection of public health and safety.

(3) A Person commits an offense if the Person distributes confidential information. The offense is a misdemeanor punishable by:

(i) a fine of not more than $1,000;

(ii) confinement in the county jail for not more than 180 days; or

(iii) both the fine and confinement.

(d) Rabies Tags

Concurrent with the issuance and delivery of the certificate of Rabies vaccination referred to, the Owner of the Animal

shall cause to be attached to the collar or harness of the Vaccinated Animal, a metal tag that is serially numbered to correspond with the vaccination certificate number, and bearing the year of issuance and the name of the issuing Licensed Veterinarian or Licensed Veterinarian's Clinic and his/her telephone number. The Owner shall cause the collar or harness with the attached Rabies vaccination metal tag to be worn by the Animal at all times. Rabies vaccination certificates and tags shall be valid only as to the Animal for which they were originally issued.

(e) Duplicate Rabies Tags

In the event of loss or destruction of the original Rabies tag provided, the Owner of the Animal shall obtain a duplicate Rabies tag from the Licensed Veterinarian who originally Vaccinated the Animal. Duplicate Rabies vaccination certificates and tags shall be valid only as to the Animal for which they were originally issued.

(f) Proof of Vaccination

It shall be unlawful for any Person who owns or Harbors a Vaccinated Animal to fail or refuse to exhibit his/her copy of the certificate of vaccination upon demand to any Person charged with the enforcement of this Article.

(g) Vaccination; Criminal Penalty

(1) It shall be unlawful for any Person to own or Harbor any Animal that has not been Vaccinated against Rabies, as provided herein, or that cannot be identified as having a current Rabies vaccination certificate.

(2) An offense under this Article is a Class C misdemeanor.

(3) If on the trial of an offense under this Article the court finds that the Person has been previously convicted of an offense under this Article, the offense is a Class B misdemeanor.

(h) Use and Sale of Rabies Vaccine

(1) Rabies vaccine for Animals may be administered only by or under the direct supervision of a Licensed Veterinarian.

(2) A Person may not sell or distribute Rabies vaccine for Animals to any Person except a Licensed Veterinarian or to a Person working in a veterinary clinic who accepts the vaccine on behalf of the Licensed Veterinarian.

(3) This Article does not prohibit a pharmacy licensed by the Texas State Board of Veterinary Medical Examiners from selling or dispensing Rabies vaccine to an individual with whom the Licensed Veterinarian has a Licensed Veterinarian-client-patient relationship as described by Chapter 801, Occupations Code, for the sole purpose of vaccinating that individual's own Livestock.

(i) Use and Sale of Rabies Vaccine; Criminal Penalty

(1) A Person commits an offense if the Person:

(i) administers or attempts to administer Rabies vaccine in a manner not authorized by this Article;

(ii) dispenses or attempts to dispense Rabies vaccine in a manner not authorized by this Article; or

(iii) sells or distributes Rabies vaccine for Animals in violation of this Article.

(2) An offense under this Article is a Class C misdemeanor.

(j) Animals Exposed to Rabies

Any Person having knowledge of the existence of any Domestic Animal known to have been, or suspected of being, exposed to Rabies must *immediately* report such knowledge to Animal Control, and the LRCA or his/her designee, and provide any additional information that may be required. For any Animal known to have been, or suspected of being, exposed to Rabies, the following rules apply:

(1) Domestic Animals that **have** a current Rabies vaccination should be humanely Euthanized or re-Vaccinated *immediately* after exposure and placed in strict isolation, at the Owner's expense, in a Secure Enclosure for observation according to the method prescribed by the LRCA for a period of not less than 45 days unless the suspected Rabies-carrying Animal is available for testing, is tested and the test has returned a negative result for Rabies.

(2) Domestic Animals that **do not have** a current Rabies vaccination should be humanely Euthanized. However, if the Owner of such an Animal elects, he/she may, at his/her expense and in a manner prescribed by the LRCA, Quarantine said Animal in a Secure Enclosure and make the suspected Rabies-carrying Animal available for immediate testing. If such Animal is tested and the test has returned a negative result for Rabies then such an Animal must be:

(i) Vaccinated *immediately* after test results are received;

(ii) placed in strict isolation for not less than 90 days in a Secure Enclosure; and

(iii) given booster vaccinations during the third and eighth weeks while in isolation during the observation period. (For young Animals, additional vaccinations may be necessary to ensure the young Animal receives at least two vaccinations at or after the age prescribed by the USDA for the vaccine administered.)

(3) This Article only applies to Domestic Animals for which an approved Rabies vaccine is available.

(4) If a Licensed Veterinarian determines that a Quarantined Animal shows the clinical signs of Rabies, the Licensed Veterinarian or Animal Control Authority shall humanely Euthanize the Animal. If an Animal dies or is Euthanized while in Quarantine, the Veterinarian or Animal Control Authority shall remove the head of the Animal and submit it to the nearest Department laboratory for testing.

**1.03 Humans Bitten or Scratched by Animals Susceptible to Rabies**

(a) Reporting Requirements

Any Person having knowledge of an Animal bite/scratch to a human being must report the incident to Animal Control, the LRCA, and LHA as soon as possible, but not later than

24 hours from the time of the incident. This reporting requirement does not apply to bites/scratches inflicted by Low Risk Animals.

(b) Quarantine

The Owner of the biting/scratching Animal **may not** vaccinate that Animal and will place that Animal in a 240-hour Quarantine in a Primary Enclosure or Secure Enclosure for observation commencing on the day of the biting/scratching incident and under the supervision of Animal Control and the LRCA, or his/her designee, at the Owner's expense.

(c) Investigation

Animal Control and the LRCA, or his/her designee, will investigate each bite incident. All bites or scratches from Low Risk Animals may be investigated at the discretion of the LRCA, the Department or other State or Federal Animal regulatory authorities.

(d) Exclusions

(1) Bites/scratches to human beings from rodents, moles, shrews, opossums, armadillos, rabbits, birds, and all cold-blooded Animals are excluded from the reporting requirements of this section.

(2) Police Dogs are exempt from the requirements of this Article, unless determined otherwise by a Licensed Veterinarian or his/her designee, or the LRCA; Police Dogs may be subject to home Quarantine.

**1.04 Animals At Large; Restraint Requirements**

(a) Prohibition

It shall be unlawful for any Owner, Custodian, or Harborer to allow any Domestic Dog or other Animal possessed, kept, or Harbored, to roam At Large as defined in this section, and:

(1) every Dog or Cat must be restrained by its Owner;

(2) every Stray Dog or Cat is declared a public nuisance;

(3) every Stray Dog or Cat shall be detained or impounded by the LRCA or that officer's designee; and

(4) a humane disposition must be made of each unclaimed Stray Dog or Cat on the expiration of the required Impoundment period.

(b) Authority of Animal Control Officer

Animal Control Officers are authorized to pursue onto private and public property and impound Animals that roam At Large. Animal Control Officers may impound Animals At Large under conditions specified in this section, or when the Animal Control Officer has received a complaint that an Animal has caused a nuisance or hazard to the health, safety or welfare of human beings or the Animal population.

(c) Restraint; Criminal Penalty

(1) A Person commits an offense if:

(i) the Person fails or refuses to restrain a Dog or Cat owned by the Person; and

(ii) the Animal is required to be restrained under this Article by a county or municipality within whose jurisdiction the act occurs.

(2) An offense under this section is a Class C misdemeanor.

**1.05 Animal Nuisances**

The following are determined to be unlawful public nuisances and are prohibited both within Anna's corporate limits and within 5,000 feet outside of Anna's corporate limits:

(a) the keeping of any Animal that physically molests passers-by or passing vehicles, attacks other Animals, is not accompanied by a responsible Person who maintains physical control over the Animal by leash, cord, rope or other physical restraint device, trespasses on school grounds, and/or damages public or private property;

(b) the keeping of bees in such a manner as to deny the lawful use of adjacent property or endanger personal health, safety and welfare;

(c) laxness in supervision of Cats;

(d) the keeping of any Animal(s) that causes frequent, excessive or long continuous barking, whining, crying, meowing, howling, or other Animal-related noise that interferes with public peace and comfort;

(e) maintaining any Animal in such a manner or allow any pen, enclosure, yard or similar place used for the keeping of Animals to become:

(1) unsanitary;

(2) offensive by reason of odor;

(3) offensive by lack of maintenance or creates a visual nuisance;

(4) favorable for any zoonotic diseases or any other diseases; or

(5) a breeding place for fleas, ticks or other vectors;

(f) allowing excreta deposited by an Animal to remain on public or private property or allowing any condition injurious to public health caused by the lack of or improper disposal of Animal waste. (Public property includes, but is not limited to, walks, sidewalks, streets, alleys, parks, or recreation areas.)

**Section 2. Dangerous Animals**

**2.01 Dangerous Wild Animals Prohibited Within City**

It shall be unlawful for a Person to own, Harbor, or have custody or control of a Dangerous Wild Animal for any purpose within the City of Anna.

**2.02 Exemptions**

(a) A Person is exempt from the requirements of this section if the Person is caring for, treating, or transporting an Animal for which the Person holds a Class "A" or Class "B" dealer's license or a Class "C" exhibitor's license issued by the Secretary of Agriculture of the United States under the Animal Welfare Act (7 U.S.C. §2131 et seq.) and its subsequent amendments.

(b) This section does not refer to Police Dogs acting on the command of a police officer or as a result of training.

**2.03 Seizure of a Dog Causing Death or Serious Bodily Injury to a Person**

(a) A justice court, county court, or municipal court shall order the Animal Control Authority to seize a Dog and shall issue a warrant authorizing such seizure:

(1) on the sworn complaint of any Person, including the county attorney, the city attorney, or a peace officer, that the Dog has caused the death of or Serious Bodily Injury to a Person by attacking, biting, or mauling a Person; or

(2) on a showing of probable cause to believe that the Dog caused the death of or Serious Bodily Injury to the Person as stated in the complaint.

(b) The Animal Control Authority shall seize the Dog or order its seizure and shall provide for the Impoundment of the Dog in secure and humane conditions until the court orders the disposition of the Dog.

**2.04 Hearing**

(a) The court shall set a time for a hearing to determine whether the Dog caused the death of or Serious Bodily Injury to a Person by attacking, biting, or mauling the Person. The hearing must be held not later than the 10th day after the date on which the warrant is issued.

(b) The court shall give written notice of the time and place of the hearing to:

(1) the Owner of the Dog or the Harborer or the Person from whom the Dog was seized; and

(2) the Person who made the complaint.

(c) Any interested party, including the county attorney or city attorney, is entitled to present evidence at the hearing.

(d) The court shall order the Dog destroyed if the court finds that the Dog caused the death of a Person by attacking, biting, or mauling the Person. If that finding is not made, the court shall order the Dog released to:

(1) its Owner;

(2) the Harborer;

(3) the Person from whom the Dog was seized; or

(4) any other Person authorized to take possession of the Dog.

(e) The court may order the Dog destroyed if the court finds that the Dog caused Serious Bodily Injury to a Person by attacking, biting, or mauling the Person. If that finding is not made, the court shall order the Dog released to:

(1) its Owner;

(2) the Harborer;

(3) the Person from whom the Dog was seized; or

(4) any other Person authorized to take possession of the Dog.

(f) The court may not order the Dog destroyed if the court finds that the Dog caused the Serious Bodily Injury to a Person by attacking, biting, or mauling the Person and:

(1) The Dog was being used for the protection of a Person or Person's property and:

the attack, bite, or mauling occurred in an enclosure in which the Dog was being kept;

the enclosure was reasonably certain to prevent the Dog from leaving the enclosure on its own and provided notice of the presence of a Dog; and

the injured Person was at least eight years of age, and was trespassing in the enclosure when the attack, bite, or mauling occurred;

(2) The attack, bite, or mauling occurred during an arrest or other action of a peace officer while the peace officer was using the Dog for law enforcement purposes;

(3) The Dog was defending a Person from an assault or a Person's property from damage or theft by the injured Person; or

(4) The injured Person was younger than eight years of age and:

(i) the attack, bite, or mauling occurred in an enclosure in which the Dog was being kept, and

the enclosure was reasonably certain to keep a Person younger than eight years of age from entering.

**2.05 Destruction of Dog**

(a) The destruction of a Dog under this section must be performed by:

(1) a Licensed Veterinarian;

(2) personnel of a recognized Animal Shelter or humane society who are trained in the humane destruction of Animals; or

(3) personnel of a governmental agency responsible for Animal control who are trained in the humane destruction of Animals.

**2.06 Provocation or Location of Attack Irrelevant**

Unless otherwise specified in this section, this section applies to any Dog that causes a Person's death or Serious Bodily Injury by attacking, biting, or mauling the Person, regardless of whether the Dog was provoked and regardless of where the incident resulting in the Person's death or Serious Bodily Injury occurred.

**2.07 Determination That Dog Is Dangerous**

(a) If a Person reports an incident, the Animal Control Authority may investigate the incident. If, after receiving the sworn statements of any witnesses, the Animal Control Authority determines the Dog is a Dangerous Dog, it shall notify the Owner of that fact.

(b) An Owner may appeal the determination of the Animal Control Authority to a justice, county, or municipal court of competent jurisdiction no later than the 15th day after the date the Owner is notified that a Dog owned by the Owner is a Dangerous Dog. An Owner may appeal the decision of the justice, county, or municipal court in the same manner as appeal for other cases from the justice, county or municipal court.

**2.08 Requirements for Owner of Dangerous Dog**

(a) Not later than the 30th day after a Person learns that the Person owns a Dangerous Dog, the Person shall:

(1) register the Dangerous Dog with the Animal Control Authority for the area in which the Dog is kept;

(2) at all times restrain the Dangerous Dog on a leash in the immediate control of a Person or in a Primary Enclosure or Secure Enclosure;

(3) display in a conspicuous place on his/her premises a sign that is easily readable by the public using the words "Beware—Dangerous Animal." The sign shall be no smaller than one square foot total area, with alphabetic letters with no less than one inch height. A similar, easily readable, sign with a total square area of 18 inches, shall be posted on the enclosure or pen of such Dangerous Animal and posted on all entrances to the dwelling, building or structure.

(4) obtain liability insurance coverage or show financial responsibility in an amount of at least $100,000 to cover damages resulting from an attack by the Dangerous Dog causing bodily injury to a Person and provide proof of the required liability insurance coverage or financial responsibility to the Animal Control Authority for the area in which the Dangerous Dog is kept; and

(5) comply with any applicable municipal or county regulation, requirement, or restriction on Dangerous Dogs.

(b) The Owner of a Dangerous Dog who does not comply with subsection (a) shall deliver the Dangerous Dog to the Animal Control Authority not later than the 30th day after the Owner learns that the Dog is a Dangerous Dog.

(c) If, on application of any Person, a justice court, county court, or municipal court finds, after notice and hearing as provided by Section 6.07, that the Owner of a Dangerous Dog has failed to comply with subsection (a) or (b), the court shall order the Animal Control Authority to seize the Dog and shall issue a warrant authorizing the seizure. The Animal Control Authority shall seize the Dog or order its seizure and shall provide for the Impoundment of the Dog in secure and humane conditions.

(d) The Owner shall pay any cost or fee assessed by the municipality or county related to the seizure, acceptance, Impoundment, or destruction of the Dangerous Dog. The governing body of the municipality or county may prescribe the amount of the fees.

(e) The court shall order the Animal Control Authority to humanely destroy the Dangerous Dog if the Owner has not complied with subsection (a) before the 11th day after the date on which the Dangerous Dog is seized or delivered to the Animal Control Authority. The court shall order the Animal Control Authority to return the Dangerous Dog to the Owner if the Owner complies with subsection (a) before the 11th day after the date on which the Dangerous Dog is seized or delivered to the Animal Control Authority.

(f) The court may order the humane destruction of a Dangerous Dog if the Owner of the Dangerous Dog has not been located before the 15th day after the seizure and Impoundment of the Dangerous Dog.

(g) For purposes of this section, a Person learns that the Person is the Owner of a Dangerous Dog when:

(1) the Owner knows of an attack;

(2) the Owner receives notice that a justice court, county court, or municipal court has found that the Dog is a Dangerous Dog under this section; or

(3) the Owner is informed by the Animal Control Authority that the Dog is a Dangerous Dog under this section.

**2.09 Inspection**

An Owner of a Dangerous Dog or Dangerous Wild Animal, at all reasonable times, shall allow the Animal Registration Agency, its staff, its agents, or a designated Licensed Veterinarian to enter the premises where the Animal is kept and to inspect:

(a) the Animal:

(b) the Primary Enclosure or Secure Enclosure for the Animal: and

(c) the Owner's records relating to the Animal to ensure compliance with this section.

**2.10 Relocation or Disposition of Animal**

(a) An Owner of a Dangerous Dog or Dangerous Wild Animal may not permanently relocate the Animal unless the Owner first notifies the Animal Registration Agency in writing of the exact location to which the Animal will be relocated and provides the Animal Registration Agency, with respect to the new location, the information required by this section.

(b) Within 10 days after the death, sale, or other disposition of the Animal, the Owner of the Animal shall notify the Animal Registration Agency in writing of the death, sale, or other disposition of the Animal.

**2.11 Attack by Animal; Escape of Animal; Liability**

(a) An Owner of a Dangerous Dog or Dangerous Wild Animal shall notify the Animal Registration Agency of any attack of a human by the Animal immediately after the attack.

(b) An Owner of a Dangerous Wild Animal shall immediately notify the Animal Registration Agency and the local law enforcement agency of any escape of the Animal.

(c) An Owner of a Dangerous Dog or Dangerous Wild Animal that escapes is liable for all costs incurred in apprehending and confining the Animal.

(d) An Animal Registration Agency, a law enforcement agency, or an employee of an Animal Registration Agency or law enforcement agency is not liable to an Owner of a Dangerous Wild Animal for damages arising in connection with the escape of a Dangerous Wild Animal, including liability for damage, injury, or death caused by the Animal during or after the Animal's escape, or for injury to or death of the Animal as a result of apprehension or confinement of the Animal after escape.

**2.12 Powers and Duties of Board; Caging Requirements and Standards**

(a) The Board by rule shall establish caging requirements and standards for the keeping and confinement of a Dangerous Wild Animal to ensure that the Animal is kept in a manner and confined in a Primary Enclosure that:

(1) protects and enhances the public's health and safety;

(2) prevents escape by the Animal; and

(3) provides a safe, healthy, and humane environment for the Animal.

(b) An Owner of a Dangerous Wild Animal shall keep and confine the Animal in accordance with the caging requirements and standards established by the Board.

(c) An Animal Registration Agency may approve a deviation from the caging requirements and standards established by the Board only if:

(1) the Animal Registration Agency has good cause for the deviation; and

(2) the deviation:

(i) does not compromise the public's health and safety;

(ii) does not reduce the total area of the Primary Enclosure below that established by the Board; and

(iii) does not otherwise adversely affect the overall welfare of the Animal involved.

**2.13 Care, Treatment, and Transportation of Dangerous Wild Animal**

(a) For each Dangerous Wild Animal, the Owner shall comply with all applicable standards of the Animal Welfare Act (7 U.S.C §2131 et seq.) and its subsequent amendments and the regulations adopted under that Act relating to:

(1) facilities and operations;

(2) animal health and husbandry; and

(3) veterinary care.

(b) An Owner of a Dangerous Wild Animal shall maintain a separate written log for each Dangerous Wild Animal, documenting the Animal's veterinary care. An Owner of a Dangerous Wild Animal shall make the written log available to the Animal Registration Agency or its agent on request. The log must:

(1) identify the Animal treated;

(2) provide the date of treatment;

(3) describe the type or nature of treatment; and

(4) provide the name of the attending Licensed Veterinarian, if applicable.

(c) When transporting a Dangerous Wild Animal, the Owner of the Dangerous Wild Animal, or a designated carrier or intermediate handler of the Dangerous Wild Animal, shall comply with all transportation standards that apply to that Dangerous Wild Animal under the Animal Welfare Act (7 U.S.C. §2131 et seq.) and its subsequent amendments or the regulations adopted under that Act.

**2.14 Injunction**

Any Person who is directly harmed or threatened with harm by a violation of this section or a failure to enforce this section may sue an Owner of a Dangerous Wild Animal to enjoin a violation of this subsection or to enforce this subsection. Anna is not a proper party to such a suit and nothing in this section waives Anna's immunity from suit or liability.

**2.15 Applicability of Section**

(a) This section does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. §2132), and its subsequent amendments, that is licensed by the Secretary of Agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) an injured, infirm, orphaned, or abandoned Dangerous wild Animal while being transported for care or treatment;

(5) an injured, infirm, orphaned, or abandoned Dangerous Wild Animal while being rehabilitated, treated, or cared for by a Licensed Veterinarian, an incorporated humane society or Animal Shelter, or a Person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

(6) a Dangerous Wild Animal owned by and in the custody and control of a transient circus company that is not based in this state if:

the Animal is used as an integral part of the circus performances; and

the Animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States.

(7) a Dangerous Wild Animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a Dangerous Wild Animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a Dangerous Wild Animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7U.S.C. §2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a Person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C §2131 et seq.) and its subsequent amendments;

(11) a Dangerous Wild Animal that is:

(i) owned by or in the possession, control, or custody of a Person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(ii) an integral part of that species survival plan.

(12) a county west of the Pecos River that has a population of less than 25,000;

(13) a cougar, bobcat, or coyote in the possession, custody, or control of a Person that has trapped the cougar, bobcat, or coyote as part of a predator or depredations control activity.

(b) This subsection does not require a municipality that does not have an Animal Control Office to create that office.

**2.16 Two-Bite Rule**

If two instances of any Animal biting a human being have occurred within the Anna city limits, then that Animal is deemed to be a public nuisance and is prohibited from being present within the city limits of Anna or within 5,000 feet of the city limits of Anna. The Animal must be removed from said prohibited areas within 10 days of the second biting incident.

**Section 3. Dogs and Coyotes that are a Danger to Animals**

**3.01 Running At Large; Criminal Penalty**

(a) The Owner, keeper, or Person in control of a Dog or coyote that the Owner, keeper, or Person knows is accustomed to run, worry, or kill Livestock, Domestic Animals, or fowls may not permit the Dog or coyote to run At Large.

(b) A Person who violates this section commits an offense. An offense under this subsection is punishable by a fine of not more than $100.

(c) Each time a Dog or coyote runs At Large in violation of this section constitutes a separate offense.

**3.02 Dogs or Coyotes that Attack Animals**

(a) A Dog or coyote that is attacking, is about to attack, or has recently attacked Livestock, Domestic Animals, or fowls may be killed by:

(1) any Person witnessing the attack; or

(2) the attacked Animal's Owner or a Person acting on behalf of the Owner if the Owner or Person has knowledge of the attack.

(b) A Person who kills a Dog or coyote as provided by this section is not liable for damages to the Owner, keeper, or Person in control of the Dog or coyote.

(c) A Person who discovers on the Person's property a Dog or coyote known or suspected of having killed Livestock, Domestic Animals, or fowls may detain or impound the Dog or coyote and return it to its Owner or deliver the Dog or coyote to the local Animal Control Authority. The Owner of the Dog or coyote is liable for all costs incurred in the capture and care of the Dog or coyote and all damage done by the Dog or coyote.

(d) The Owner, keeper, or Person in control of a Dog or coyote that is known to have attacked Livestock, Domestic Animals, or fowls shall control the Dog or coyote in a manner approved by the Animal Control Authority.

(e) A Person is not required to acquire a hunting license under Section 42.002, Parks and Wildlife Code, to kill a Dog or coyote under this Section 3.02.

**Section 4. Impoundment of Animals**

**4.01 In General**

(a) The following Animals may be impounded:

(1) any Animal believed to be infected with Rabies or kept under conditions that could endanger the public or Animal health, safety or welfare;

(2) any Animal found At Large;

(3) any Animal treated in a manner determined by Animal Control to be cruel and inhumane;

(4) any Animal that is suspected of biting or scratching a human being or is suspected of coming into contact with a Rabies High Risk Animal that requires isolation to observe for possible Rabies, as determined by Animal Control and/or State or Federal authorities;

(5) any Animal violating any provision of Texas Penal Codes 42.09, 42.091 or 42.010, as they currently exist or may be amended;

(6) any Animal violating any provision of the Texas Health and Safety Code, Chapter 826, as it currently exists or may be amended;

(7) any Animal violating any provision of the Texas Administrative Code, Chapter 169, as it currently exists or may be amended; and/or

(8) any Animal violating any provisions of this Article.

(b) If any of the Animals named in this Article are found upon the premises of any resident located within Anna's city limits, the Anna resident shall have the right to confine such Animal in a humane manner until he/she can notify Animal Control to retrieve the Animal for Impoundment. When so notified, it shall be the duty of Animal Control to impound such Animal as herein provided.

(c) A reasonable effort shall be made by Animal Control to contact the Owner of any Animal impounded that is wearing an identification tag of any type; however, final responsibility for location of an impounded Animal is that of the Owner.

(d) The Owner can resume possession of any impounded Animal that is otherwise subject to release upon:

(1) payment of Impoundment fees;

(2) payment of handling fees:

(3) payment of any veterinarian bills incurred by Animal Control and Anna's agents for the welfare of the Animal; and

(4) compliance with vaccination, and registration provisions, if any, of this Article.

(e) Disposition of Animals impounded as a result of cruel or inhumane treatment will be determined by a court of competent jurisdiction.

(f) If any Animal is being held in Quarantine or observation for Rabies, the Owner shall not be entitled to possession until the Animal has been released from the Quarantine observation period by Animal Control and the Owner has satisfied payment of any Impoundment fees, handling fees, veterinarian bills, or any other fees incurred while in custody of Animal Control or Anna's authorized agents.

(g) Any Animal not reclaimed by the Owner may be humanely Euthanized or adopted after being impounded for five days (day of Impoundment being day "0"), unless under Quarantine by Animal Control or its authorized agents. However, feral cats shall be held a minimum of three days

and any Animal wearing a current Rabies tag shall be impounded for not less than six days, unless under Quarantine. Unclaimed Animals wearing an identification tag that are in the custody of Animal Control or any of its authorized agents may be humanely Euthanized or adopted after being impounded for six days.

(h) Any seized or impounded Dangerous Wild Animal, unless there is reason to believe such Animal has an Owner, may have its disposition immediately determined as deemed appropriate by Animal Control, or its authorized agents.

(i) Any nursing baby Animal impounded without its mother, or where the mother cannot or refuses to provide nutritious milk, may be immediately Euthanized to prevent further suffering.

(j) An Animal Owner, who no longer wishes responsibility for an Animal or believes the Animal to be in an ill or injured condition, may sign a written waiver supplied by Animal Control, or its agents, that surrenders the Animal to Animal Control, or its authorized agents. If space in the Animal Shelter is available for the surrendered Animal, the Animal Control Officer may take the Animal at the time surrendered by the Owner. If shelter overcrowding exists, the Owner may place the Animal on a waiting list for surrender for up to 18 days or make other arrangements with the Animal Control Officer. The written waiver surrenders the Animal to Animal Control, or its authorized agents, to be impounded for adoption or immediate Euthanization in a humane manner. No warm-blooded Animal that has bitten or scratched a human being shall be Euthanized before the expiration of the Quarantine period, unless said Animal's Owner requests that the Animal be Euthanized for Rabies testing.

(k) Any impounded Animal that appears to be suffering from extreme injury or illness may be immediately Euthanized or given to a non-profit humane organization for the purposes of veterinary care as determined by Animal Control.

**4.02 Impoundment Fees**

(a) Impoundment fees for Animals impounded shall be published and determined by Anna's authorized Animal Shelter agent(s) for all Animals.

(1) Class A: all Domestic Dogs and Domestic Cats, unsterilized (unspayed or unneutered) or sterilized (spayed or neutered).

(2) Class B: Small Livestock shall include goats, sheep, lambs, swine, and Animals of the same approximate size and weight. Fees shall be set based on actual costs, damages and the factors set forth in Chapter 142 of the Texas Agricultural Code, as it exists or may be amended.

(3) Class C: Large Livestock shall include cattle, horses, ponies, mules, and Animals of the same approximate size and weight. Fees shall be set based on actual costs, damages and the factors set forth in Chapter 142 of the Texas Agricultural Code, as it exists of may be amended.

(4) Class D: Animals not listed herein above shall be impounded and/or disposed of at the discretion of the Animal Control or Anna's authorized agents.

(b) A daily handling fee shall be charged for every day, or fraction thereof, that an Animal is at the Animal Shelter. Said fee shall be based upon the class of Animal enumerated above as deemed by Anna's authorized agent(s). Class D Animals shall be charged as deemed by Anna's authorized Animal Shelter agent(s). This fee is in addition to the Impoundment fee as set forth by Anna's authorized Animal Shelter agent(s). Class B and Class C Animals shall be impounded by Collin County in accordance with the Texas Estray Act (Chapter 142 of the Texas Agriculture Code), as it currently exists or may be amended.

(c) The Owner of any Class A, Class B, or Class C Animal held in Quarantine for observation purposes, or any other purposes, shall be charged for each day or fraction of a day at the rates set forth and published by Anna's authorized Animal Shelter agent(s). This fee is in addition to Impoundment fees and daily handling fees or any other costs incurred by Anna's authorized Animal Shelter agent(s).

(d) The Owner of a Class D Animal shall be charged for each day or fraction of a day the Animal is held in Quarantine for observation purposes, or any other purposes, at the Animal Shelter at the rates set forth and published by Anna's authorized Animal Shelter agent(s). This fee is in addition to Impoundment fees and daily handling fees or any other costs incurred by Anna's authorized Animal Shelter agent(s).

(e) The enforcing agency shall deposit the fees collected in the treasury of the enforcing agency. The fees may be used only to help defray the cost of administering this subsection or the ordinances or rules of the enforcing agency within its jurisdiction.

**Section 5. Animal Ownership Limitation**

From and after the effective date of this Article, it shall be unlawful for any Person, firm or corporation to keep or Harbor more than six Domestic Dogs, or six Domestic Cats, or three Domestic Ferrets, or any combination of six thereof, providing the number of Domestic Ferrets does not exceed three of that species, (i.e., five Domestic Dogs and one Domestic Cat; one Domestic Dog and five Domestic Cats; three Domestic Dogs, two Domestic Cats and one Domestic Ferret) over the age of six months on any one residential dwelling property located within the Anna city limits.

**Section 6. Restrictions on Livestock and Domestic Fowl**

**6.01 Swine**

It shall be unlawful for any Person, firm or corporation to Harbor any swine, including pot-bellied pigs, within the Anna city limits.

*(Ord. No. 450-2009, adopted 06/23/09)*

**6.02 Livestock or Domestic Fowl Restricted**

It shall be unlawful for any Person to Harbor any Livestock or Domestic Fowl on any lot, premises, or tract within the City except for a lot, premises, or tract that is at least two acres in size and zoned Agricultural, Single Family Estate, or Planned Development and only to the extent that the zoning specifically applicable to such lot, premises, or tract permits Harboring of Livestock or Domestic Fowl.

*(Ord. No. 450-2009, adopted 06/23/09)*

### 6.03 Numbers of Livestock or Domesticated Fowl Restricted

(a) On any lot, premises, or tract that is at least two acres in size, it shall be unlawful within the Anna city limits for any Person to Harbor more than:

(1) Single Large Livestock animal per one acre and its young up to nine months of age;

(2) A single Small Livestock animal per one-half acre; and

(3) A single Domestic Fowl animal per one-eighth acre of such premises or tract.

(b) It shall be unlawful for any Person to Harbor more than an aggregate of 12 Domestic Fowl in One Enclosure. Additionally, not more than one-quarter of the number of Domesticated Fowl in One Enclosure may be of the male Species.

(1) Agricultural zoned properties are exempt under this section as long as the Person does not Harbor more than can be cared for under sanitary conditions and/or create a nuisance.

(2) The Person in lawful possession of a lot, premises, or tract, as the owner thereof or the owner's tenant, may Harbor thereon cattle, horses, calves, or foals belonging to others but must still comply with all provisions of this section and abide by its restrictions.

(3) Any Agricultural zoned premises shall not be operated as a commercial business in violation of any City ordinance.

*(Ord. No. 450-2009, adopted 06/23/09)*

### 6.04 Holding Areas

(a) Livestock and Domestic Fowl must be kept within an enclosure, pen, corral, or restrictive area to prevent exit by the Animal(s). The fence posts must not sway more than six inches when tested by an Animal Control Officer.

(b) A gate for Livestock enclosure shall be mounted on hinges to a solid wall or fence post. Such a gate must connect with another fence post or wall in a manner that Livestock cannot pass through it, and the gate itself must be constructed so that there is not an opening that will allow the Animal(s) to escape the enclosed area. The gate must have a latch or chain attached capable of keeping it closed when tested by an Animal Control Officer.

*(Ord. No. 450-2009, adopted 06/23/09)*

### 6.05 Proximity to Human Living Quarters

(a) It shall be unlawful for any Person to Harbor on premises within the Anna city limits under his/her control, any Livestock or Domestic Fowl in such a manner that any of same will be quartered closer than 100 feet from any human living quarters measured in a straight line from any direction, whether occupied or unoccupied. Notwithstanding the foregoing, if the human living quarters are the living quarters of the Harborer, then the Livestock or Domestic Fowl must not be quartered closer than 20 feet thereto measured in a straight line from any direction.

(b) No Livestock or Domestic Fowl shall be permitted to graze, forage or otherwise roam within 100 feet of any neighboring dwelling, residence, or structure used for human occupancy, other than that of the Harborer.

*(Ord. No. 450-2009, adopted 06/23/09)*

### 6.06 Confinement of Male Horses

(a) Male Equines, including, but not limited to, horses capable of breeding, will be confined in such a manner that said Animals will not be dangerous to human beings, and all breeding shall be under the control of the Owner or handler.

*(Ord. No. 450-2009, adopted 06/23/09)*

### 6.07 Agricultural Education Programs

Properties that are owned by Anna Independent School District and used for agricultural education programs are exempt from the requirements in Sections 6.01, 6.02, and 6.03.

*(Ord. No. 450-2009, adopted 06/23/09)*

## Section 7. Protection of Animals

### 7.01 Baby Fowl

It shall be unlawful for any Person to sell, offer for sale, barter, or give away as toys, premiums, or novelties: baby chickens, ducklings, or other fowl under eight weeks old. Sale of such Animals for agricultural purposes is exempt from this provision if sold in quantities of ten or more.

### 7.02 Change of Color of Certain Animals

It shall be unlawful to color, dye, stain, or otherwise change the natural color of chickens, ducklings, other fowl, or rabbits, or to possess for the purpose of sale or to be given away, any of the above mentioned Animals which have been so colored.

### 7.03 Animals as Prizes or Inducements

No Person shall give away any Animal as:

(a) a prize or use as an inducement to enter any contest, game or competition;

(b) an inducement to enter a place of amusement or other non-residential establishment; or

(c) an offer or as an incentive to enter into any business establishment whereby the offer was for the purpose of attracting trade.

## Section 8. Treatment of Animals

The following are established as guidelines for pet and Animal care and not intended to contravene with the provisions for Animal cruelty as contained in the Texas Penal Code Chapter 42.09, as it currently exists or may be amended.

(a) Every Owner or other Person having care and control of any Animal shall provide the following for each Animal under his/her care and control:

(1) sufficient nutritious and wholesome food, served to the Animal in clean containers, to maintain the Animal in good health;

(2) clean and wholesome water, served to the Animal in a clean container, such water to be available to the Animal at all times;

(3) adequate shelter, which shall allow the Animal to remain dry and protected from the elements at all times, allow room for the Animal to stand, move around and lay down apart from its excrement and that shall provide either natural or artificial shade for the Animal to avoid direct sunlight. If the shelter is provided by enclosure, the enclosure shall allow for adequate ventilation; and

(4) veterinary care as needed to prevent suffering.

(b) No Person shall torture, beat, cruelly ill-treat, Overload, overwork or otherwise abuse an Animal, or cause, instigate, or permit any dogfight, cockfight, bullfight, or other combat between Animals or between Animals and human beings.

(c) No Owner of an Animal shall abandon such Animal.

(d) Any Person who, as the operator of a motor vehicle or any other means of transportation, strikes any Domestic Animal or Livestock shall stop at once and render assistance as may be possible and shall immediately report such injury or death to the Animal's Owner. In the event the Animal's Owner cannot be ascertained and/or located, such Person shall at once report the accident to Animal control or the appropriate law enforcement agency.

(e) No Person shall intentionally or knowingly trip or tip over a horse or other equine or bovine.

(f) No Owner, Custodian or Person shall leave any Animal in a standing or parked vehicle in such a way as to endanger the Animal's health, safety or welfare, including but not limited to dangerous temperature, lack of food, water or attention, or confinement with a Dangerous Animal. Any Animal Control Officer, Peace Officer, Fire Personnel or other City-authorized Person is authorized to use reasonable force to remove an Animal—including but not limited to—the breaking of a vehicle window, whenever it appears the Animal's health, safety or welfare is, or soon will be, endangered and said Animal may be impounded.

**Section 9. Sanitary Conditions**

(a) The Owner, Custodian or Person in possession of Animals shall keep pens, enclosures, yards, cages, structures, or other similar enclosures in which any Animals are kept, clean and sanitary and shall not create:

(1) any offensive odors or visual nuisances (unsightly) within the vicinity that creates a public nuisance;

(2) any favorable conditions that breed or attract flies, mosquitoes or other noxious insects;

(3) any favorable conditions for any zoonotic diseases or any other diseases; or

(4) any unsanitary condition that endangers public or Animal health or safety.

(b) All Persons keeping Animals shall comply with the following regulations.

(1) Manure and droppings shall be removed from pens, stables, yards, cages and other enclosures as necessary to maintain sanitary conditions and handled or properly disposed of in such manner as to keep the premises free of any public nuisances.

(2) Mound storage of manure or droppings between such removals shall be permitted only under such conditions as to protect against the breeding of flies and to prevent the migration of fly larvae (maggots) into the surrounding soil.

(3) The feeding of vegetables, meat scraps or garbage shall be done only in impervious containers or on an impervious platform.

(4) Watering troughs, tanks or other watering containers provided for Animals shall be equipped with adequate facilities for draining water overflow to prevent the breeding of flies, mosquitoes, or other insects.

(5) No putrescible material shall be allowed to accumulate on the premises, and all such putrescible material that is used to feed that is unconsumed shall be removed and properly disposed of by burial or other sanitary means.

**Section 10. Traps**

(a) Only humane live Animal traps may be used for capturing Animals roaming unrestrained in Anna. The use of steel jaw traps to apprehend Animals is illegal. As an exception to this section, government agencies and entities shall be permitted to use such traps and equipment as necessary and permitted by State law or regulation, as they exist or may be amended.

(b) No Person shall remove, alter, damage or otherwise tamper with a trap or equipment set out by Animal Control or Anna's agent(s).

(c) The Animal Control traps left at a site at the request of a property owner or other resident will be the responsibility of the property owner or resident. The property owner or resident will monitor the trap(s) each day and contact Animal Control if any Animal(s) is captured. The property owner or resident will contact Animal Control within 24 hours in the event of an Animal capture for removal by an Animal Control Officer.

(d) Damaged traps or missing traps will be reimbursed to Anna, or its agents for replacement of the trap(s). Citizens with traps provided by Animal Control shall not set the trap on any evenings prior to a holiday (New Year's Day, Martin Luther King, Jr. Day, Good Friday, Memorial Day, July 4th, Labor Day, Thanksgiving Day and the day after, Christmas Eve and Christmas Day) or on a Saturday, as the Animal Control Officers will only be running emergency calls on those days as well as on Sundays. During inclement weather conditions (i.e. temperatures below 40 degrees Fahrenheit, rain/snow, or excessive heat), cover traps must be covered with a blanket, placed in the shade, placed in an enclosure, or otherwise arranged to mitigate the effect of the weather on the Animal.

**Section 11. Assistance or Therapy Animals**

Upon request of an Animal Control Officer, the Owner or user of an Assistance Animal or Therapy Animal shall provide written proof signed by a licensed physician that removal of the Animal would be detrimental to the Person who requires the Animal for assistance.

**Section 12. Enforcement**

(a) Enforcement of this Article shall be the responsibility of Animal Control and/or other authorized Anna personnel and/or its authorized agent(s).

(b) Animal Control Officers, Code Enforcement Officers, Health Inspectors, the LRCA, the LHA, Peace Officers, and/or other authorized Anna personnel or Anna's authorized agents shall have the authority to issue citations for any violation of this Article or remedy violations by limitations set forth by State or Federal law.

(c) If the Person being cited is not present, Animal Control or other authorized personnel or Anna's authorized agent(s) may send a citation to the alleged offender. Notice may be given in any one of the following ways: (a) sent via registered or certified mail addressed to the Owner at the Owner's address, or (b) by hand delivery to the Owner at the Owner's address. If Anna or its authorized agent(s) mails a citation to the Owner and the United States Postal Service returns the notice as "refused", "unclaimed", or if the address that was used for sending the citation is returned as "not deliverable as addressed" (or an equivalent marking), the validity of the citation mailed to the Owner is not affected, and the citation is considered to be delivered.

(d) It shall be unlawful for any Person to interfere with Animal Control or any authorized Person, or any authorized agent in the performance of their duties under this Article.

(e) Animal Control, Anna Police, LRCA, LHA, or other authorized personnel and/or Anna's authorized agents are given the right to trespass onto any private property in Anna in exigent circumstances for the purpose of determining whether or not any provision of this Article has been violated and to impound any Animal kept or Harbored in violation of any terms of this Article.

**Section 13. Penalty for the Violation of this Article**

Any Owner, Custodian, Person, firm, corporation or business entity violating this Article shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined a sum not exceeding $2,000. Each continuing day's violation under this Article shall constitute a separate offense. While penal in nature, this Article shall not preclude Anna from filing suit to enjoin a violation. Anna retains all legal rights and remedies available to it pursuant to local, State and Federal law.

*(Ord. No. 369-2008, adopted 3/11/2008)*

**Article 5 Reserved**

**Article 6 Reserved**

**Article 7 Reserved**

## Article 8 BUILDING REGULATIONS

**Section 1. Property Maintenance Code**

**1.01 Title**

The short title for this section of The Anna City Code of Ordinances is the Property Maintenance Code ("this PMC").

**1.02 Scope**

The provisions of this PMC apply to all existing residential and nonresidential Structures and all existing premises and constitute minimum requirements and standards for Premises, Structures, equipment and facilities for light, Ventilation, space, heating, sanitation, protection from the elements, safety of lives, safety from any hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and Occupants; the Occupancy of existing Structures and Premises; and for administration, enforcement and penalties.

**1.03 Intent**

This PMC shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued Occupancy and maintenance of Structures and Premises. Existing Structures and Premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to and change of Occupancy in existing buildings shall comply with the International Existing Building Code.

**1.04 Severability**

If a section, subsection, sentence, clause or phrase of this PMC is, for any reason, held to be unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this PMC.

**1.05 Applicability**

(a) General. The provisions of this code shall apply to all matters affecting or relating to Structures and Premises, as set forth in subsection 1.01-1.04. Where, in a specific case, different provisions of this PMC specify different requirements, the most restrictive shall govern.

(b) Maintenance Equipment, systems, devices and safeguards required by this PMC or a previous regulation or Code under which the Structure or Premises was constructed, altered or repaired shall be maintained in good working order. No owner, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any Structure, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this PMC are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing Structures. Except as otherwise specified herein, the owner or the owner's designated agent shall be responsible for the maintenance of buildings, Structures and Premises.

(c) Application of other Codes. Repairs, additions or alterations to a Structure, or changes of Occupancy, shall be done in accordance with the procedures and provisions of the International Existing Building Code.

(d) Existing remedies. The provisions in this PMC shall not be construed to abolish or impair existing remedies available—at law or in equity—to the City or its officers or agents relating to the removal or demolition of any Structure which is unsafe or insanitary.

(e) Workmanship**.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this PMC shall be executed and installed in a Workmanlike manner and installed in accordance with the manufacturer's installation instructions.

(f) Historic buildings. The provisions of this PMC shall not be mandatory for existing buildings or Structures designated as historic buildings when such buildings or Structures are judged by the Code Official to be safe and in the public interest of health, safety and welfare.

(g) Referenced Codes and standards. The Codes and standards referenced in this PMC shall be those that are

listed in and considered part of the requirements of this PMC to the prescribed extent of each such reference. Where differences occur between provisions of this PMC and the referenced standards, the provisions of this PMC shall apply.

(h) Requirements not covered by Code. Requirements necessary for the strength, stability or proper operation of an existing fixture, Structure or equipment, or for the public safety, health and general welfare, not specifically covered by this PMC, shall be determined by the Code Official in a manner consistent with advancing the interest of public health and safety.

**1.06 Department of Property Maintenance Inspection**

(a) General. The department of property maintenance inspection is hereby created and the executive official in charge thereof shall be known as the Code Official.

(b) Appointment. The Code Official shall be appointed by the City Manager as an at-will employee or independent contractor.

(c) Deputies. Subject to the approval of the City Manager, the Code Official shall have the authority to appoint deputy Code Officials, other related technical officers, inspectors and other employees.

(d) Liability. The Code Official, officer or employee charged with the enforcement of this PMC, while acting for the City in the lawful discharge of duties and under the provisions of this PMC, shall not thereby be rendered liable personally, and is hereby relieved from all personal liability for any damage accruing to Person or property as a result of an act required or permitted in the discharge of official duties.

(e) Any suit instituted against any officer or employee because of an act performed by that officer or employee in the lawful discharge of duties and under the provisions of this PMC shall be defended by the City Attorney or the designee of the City Attorney until the final termination of the proceedings. The Code Official or any subordinate shall not be liable for costs in an action, suit or proceeding that is instituted in pursuance of the provisions of this PMC, and the Code Official or any subordinate, acting in good faith and without malice, shall be free from liability for acts performed under any of its provisions or by reason of any act or omission in the performance of official duties in connection therewith, subject to the statutory limits applicable to Texas municipalities.

**1.07 Fees**

The fees for activities and services performed by the department in carrying out its responsibilities under this PMC shall be as indicated in the schedule attached to Part II of The Anna City Code of Ordinances as Part IV, Schedule of Fees.

**1.08 Duties and Powers of the Code Official**

(a) General. The Code Official shall enforce the provisions of this PMC.

(b) Rulemaking authority. The Code Official shall have no rulemaking authority. However, with the approval of the City Manager, the Code Official may make recommendations to the City Council to amend this PMC in the interest of public health, safety and general welfare.

(c) Inspections. The Code Official shall make all of the required inspections, or shall accept reports of inspection by approved deputies. All reports of such inspections shall be in writing and be signed by the Person who performed the inspection and by the Code Official if someone other than the Code Official performed the inspection. With the approval of the City Manager, the Code Official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

(d) Right of entry. The Code Official is authorized to enter the Structure or Premises at reasonable times to inspect, subject to constitutional restrictions on unreasonable searches and seizures. If entry is refused for any reason, the Code Official is authorized to pursue recourse as provided by law to gain entry, subject to the prior approval of the City Manager and the City Attorney.

(e) Identification. The Code Official shall carry proper identification when inspecting Structures or Premises in the performance of duties under this PMC.

(f) Notices and orders. The Code Official shall issue all necessary notices or orders to ensure compliance with this PMC.

(g) Department records. The Code Official shall keep official records of all business and activities of the department specified in the provisions of this PMC. Such records shall be retained in the official records as long as the building or Structure to which such records relate remains in existence, unless otherwise provided for by other regulations.

(h) Coordination of inspections. Whenever in the enforcement of this PMC or another Code or ordinance, the responsibility of more than one Code Official of the City is involved, it shall be the duty of the Code Officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the Structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or Code not within the inspector's authority to enforce, the inspector shall report the findings to the Code Official or other law enforcement officer having jurisdiction.

**1.09 Approval**

(a) Modifications. Whenever there are undue burdens involved in carrying out the provisions of this PMC, the Code Official shall have the authority to grant modifications for individual cases, provided the Code Official shall first find that special individual reasons make the strict letter of this PMC unduly burdensome and the modification is in compliance with the intent and purpose of this PMC and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

(b) Alternative materials, methods and equipment**.** The provisions of this PMC are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this PMC, provided that any such alternative has been approved. An alternative material or method of construction shall be

approved where the Code Official finds that the proposed design is satisfactory and complies with the intent of the provisions of this PMC, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this PMC in quality, strength, effectiveness, fire resistance, durability and safety.

(c) Required testing. Whenever there is insufficient evidence of compliance with the provisions of this PMC, or evidence that a material or method does not conform to the requirements of this PMC, or in order to substantiate claims for alternative materials or methods, the Code Official shall have the authority to require tests to be made as evidence of compliance at no expense to the City.

(d) Test methods. Test methods shall be as specified in this PMC or by other recognized test standards. In the absence of recognized and accepted test methods, the Code Official shall be permitted to approve appropriate testing procedures performed by an approved agency.

(e) Test reports. Reports of tests shall be retained by the Code Official for the period required for retention of public records.

(f) Material and equipment reuse. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested when necessary, placed in good and proper working condition and approved.

**1.10 Violations**

(a) Unlawful acts. It shall be unlawful for a Person, firm or corporation to be in conflict with or in violation of any of the provisions of this PMC or to create, allow, or maintain a condition of property that is in violation of any of the provisions of this PMC.

(b) Notice of violation. The Code Official shall serve a notice of violation or order in accordance with the applicable notice provision of this PMC.

*(Ord. No. 498-2010, adopted 5/25/10)*

(c) Prosecution of violation. Failing to comply with a notice of violation or order issued under section 1.12 or section 1.22 is a Class C misdemeanor, punishable by a fine not to exceed $1,000. Notwithstanding the foregoing, at the sole discretion of the municipal prosecutor, any such failure to comply or other violation of this PMC may be prosecuted as a Class C misdemeanor punishable by a fine not to exceed $500, and if so prosecuted the failure to comply or violation shall be deemed a Strict Liability Offense. A violation of section 1.21 is a Class C misdemeanor punishable by a fine not to exceed $200. Subject to the municipal prosecutor's option to prosecute any violation as a Class C misdemeanor strict liability violation punishable by a fine not to exceed $500, any violation of this PMC—other than failure to comply with a notice of violation or order issued under section 1.12 or 1.22 or a violation of section 1.21—is a Class C misdemeanor punishable by a fine not to exceed $2,000 or the maximum amount otherwise established by law. It is no defense to prosecution for any violation of this PMC that the City or its agents did not adhere to the notice and hearing procedures set forth in this PMC. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

(d) Other remedies. If a notice of violation or order issued under this PMC is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or Abate such violation or to require the removal or termination of the unlawful Occupancy of the Structure in violation of the provisions of this PMC or of the order or direction made pursuant thereto.

(e) Lien**.** Any action taken by the authority having jurisdiction on such Premises shall be charged against the real estate upon which the applicable violation or Structure is located and shall be a lien upon such real estate. To obtain a lien against the property, the mayor, municipal health authority, or municipal official designated by the mayor must file a statement of expenses with the county clerk of Collin County. The lien statement must state the name of the owner, if known, and the legal description of the property. The lien attaches upon the filing of the lien statement with the county clerk. The lien obtained by the City is security for the expenditures made and interest accruing at the rate of 10% on the amount due from the date of payment by the City. In order to obtain a release of lien from the City, the current property owner shall pay to the City the lien amount plus any accrued interest, all filing fees, and any expenses to be incurred by the City for preparing and filing the release of lien. The lien is inferior only to:

(1) tax liens; and

(2) liens for street improvements.

(Ord. No. 498-2010, adopted 5/25/10)

(f) Subject to the approval by the City Council, the City Attorney may bring a suit for foreclosure in the name of the City to recover the expenditures and interest due. The statement of expenses or a certified copy of the statement is prima facie proof of the expenses incurred by the City in doing the work or making the improvements. The remedies provided by this section are in addition to all other remedies. The City may foreclose a lien on property under this subsection in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code.

(Ord. No. 498-2010, adopted 5/25/10)

(g) Abatement of violation**.** The imposition of the penalties herein prescribed shall not preclude the City Attorney from instituting appropriate action to restrain, correct or Abate a violation, or to prevent illegal Occupancy of a building, Structure or Premises, or to stop an illegal act, conduct, business or utilization of the building, Structure or Premises.

**1.11 Notices, Orders and Abatement for Violations that do not Constitute Dangerous Structures or Junked Vehicles**

(a) Notice to Person responsible. Except in cases where the Code Official determines that a violation of this PMC arises under section 1.12 (Dangerous Structures), 1.21 (Junked Vehicles) or 1.22 (Swimming Pool Enclosures), a Code Official that determines that there has been a violation of this PMC or has grounds to believe that a violation has occurred, shall give notice—in the manner prescribed in Sections 1.11(b) and 1.11(c)—to the property owner or Person responsible for the violation and other Persons, if any, as specified in this PMC. In cases

involving Dangerous Structures, the notice shall be served and be in the form prescribed by the provisions of section 1.12.

(Ord. No. 498-2010, adopted 5/25/10)

(b) Form**.** The notice prescribed in section 1.11(a) shall be in accordance with all of the following:

(1) be in writing;

(2) include a description of the real estate sufficient for identification;

(3) include a statement of the violation or violations and why the notice is being issued;

(4) include a directive that if the violation(s) is not corrected within 10 days, the City may enter the property to abate or otherwise correct the violation;

*(Ord. No. 498-2010, adopted 5/25/10)*

(5) include a statement of the City's right to file a lien in accordance with section 1.10(e);

(6) (Ord. No. 498-2010, adopted 5/25/10)

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

(c) Method of service. Such notice shall be deemed to be properly served if a copy thereof is given:

(1) personally to the owner in writing;

(2) by regular mail to the owner at the owner's address as recorded in the appraisal district records of the appraisal district in which the property is located; or

*(Ord. No. 498-2010, adopted 5/25/10)*

(3) if personal service cannot be obtained:

(i) by publication at least once in a newspaper of general circulation in the City;

(ii) by posting the notice on or near the front door of each building on the property to which the violation relates; or

(iii) by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates.

(d) If the Code Official mails a notice to a property owner in accordance with this subsection and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered to have been delivered.

(e) Penalties. Unless otherwise made compulsory by state law, penalties for noncompliance with orders and notices shall be as set forth in section 1.10.

(f) Abatement by City. If the owner of property in the City does not comply with this PMC by abating the violation within 10 days of notice of a violation, the City may do the work or make the improvements required and/or pay for the work done or improvements made; and in either event may charge the expenses to the owner of the property.

(1) In the event the violation is abated by the City, an administrative cost of $150 per violation shall be added to total cost of abatement.

(2) Where City employees are required to abate a violation (except for abating weeds and tall grass violations), the City's actual costs shall include the administrative cost, plus $25 per hour of each employee working on the abatement. The minimum charge shall be one hour per employee. Additional charges shall accrue every quarter hour after one hour.

(3) Where City employees are required to abate weeds and tall grass violations, the City's actual cost shall include the administrative cost, plus $50 per lot, plus $0.02 per square foot on lots that exceed 21,780 square feet for every square foot over 21,780. Where the abatement activity exceeds one hour, the actual cost shall include an additional $25 per hour for each employee working on the abatement. Charges shall accrue every quarter hour after one hour. Additional charges for disposing of debris and obstructions and other abatement-associated activities may be assessed.

(Ord. No. 498-2010, adopted 5/25/10)

(g) If a violation covered by a notice under this subsection occurs within the one-year period, and the City has not been informed in writing by the owner of an ownership change, then the City without notice may take any action permitted by in this subsection and assess its expenses in accordance with this PMC.

*(Ord. No. 498-2010, adopted 5/25/10)*

**1.12 Dangerous Structures**

(a) General. When a Structure is found to be a Dangerous Structure by the Code Official, the Structure may be addressed pursuant to the provisions of this Secton1.12, providing for notice and a public hearing.

(b) Reference to state law. This Section 1.12 is adopted pursuant to Chapter 54, Subchapter C of the Texas Local Government Code.

(c) Definitions.

*Dangerous Structure* means a Structure that is in an unsafe condition that could injure, hurt, or damage individuals or property and that:

(1) regardless of its structural condition, is 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 children; or

(2) is boarded up, fenced, or otherwise secured in any manner if the Structure constitutes a danger to the public even though secured from entry, or if the means used to secure the Structure are inadequate to prevent unauthorized entry or use of the Structure; or

(3) is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare, and which:

(i) contains one or more interior walls or other vertical structural members that 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) exclusive of the foundation, shows 33% or more damage/deterioration to the supporting member(s) or 50% or more damage/deterioration to the nonsupporting enclosure(s) or to outside walls or coverings;

(iii) has one or more improperly distributed loads upon the floors or roofs, or in which the same are overloaded, or which have insufficient strength to be reasonably safe for the purpose used;

(iv) has been damaged by fire, wind, or other causes so as to have become dangerous to persons or property;

(v) has become or is so dilapidated, decayed, unsafe, or unsanitary, or which utterly fails to provide amenities essential to decent living so that they are unfit for human habitation, or are likely to cause sickness, disease, or injury to the health or welfare of those living therein;

(vi) has parts thereof which are attached in a manner that they have or could fall and injure persons or property;

(vii) has a foundation that is not so free of holes, cracks, buckling, crumbling, and defects as to adequately support the Structure;

(viii) does not have a floor, exterior wall and roof that is so free of holes, cracks and loose, rotten, warped or protruding boards necessary to reasonably protect the Occupants of the Structure from weather elements and from danger of collapse;

(ix) does not have interior walls and ceilings that are so free of holes, cracks, loose plaster, loose and baggy wallpaper, defective materials and structural deterioration as to reasonably serve their purpose and as to protect the Occupants of the Structure from danger of collapse and of fire; or

(x) exists in violation of any provision of any applicable building code(s) of the City, any provision of the City's fire code, or other ordinances of the City as such provisions relate to minimum standards for buildings or Structures.

*Occupant* means any individual living or sleeping in a building or Structure or having possession of a space within a building or Structure.

(d) Declaration of Nuisance. All Structures that are found to be Dangerous Structures, after notice and hearing as provided for under the provisions of this Section 1.12, are hereby declared to be public nuisances and shall be secured, repaired, vacated, or demolished as provided in this Section 1.12.

(e) Designation of Official. The Code Official or that person's designee shall—with or without the assistance of other City personnel, officials, or consultants—present all cases at hearings presided over by the Commission.

(f) Building and Standards Commission. A Building and Standards Commission ("Commission") is hereby established, which shall be constituted by the same members appointed by the City Council to serve as the City's Board of Adjustment. The purpose of the Commission is to hear and determine cases under this Section 1.12. A majority of the regular members of the Commission must be present for any hearing. Vacancies shall be filled in the same manner that vacancies are filled on the Board of Adjustment and the regular membership of the Commission and the regular membership of the Board of Adjustment shall be the same. A majority of the entire regular Commission members shall adopt, as necessary, all rules for hearings and other Commission matters in accordance with this Section 1.12. The City Council shall have the authority to review and modify such rules at its discretion. All meetings and hearings conducted by the Commission shall be open to the public and minutes shall be kept of all such meetings and hearings, recording the vote of each member. Said minutes shall be filed immediately in the offices of the City as public records. A majority vote of the Commission members voting on a matter is necessary to take any action.

(g) Building and Standards Commission Functions. After the public hearing required under this Section 1.12, the Commission may do any or all of the following:

(1) declare a Structure to be a Dangerous Structure;

(2) order the repair, within a fixed period as set forth in this Section 1.12, of a Structure it determines to be a Dangerous Structure or a Structure it determines to be in violation of applicable health and safety ordinances, code provisions, or other regulations adopted by the City;

(3) order, in an appropriate case, the immediate removal of persons or property found on private property, enter on private property to secure the removal if it is determined that conditions exist on the property that constitute a Dangerous Structure, and order action to be taken as necessary to remedy, alleviate, or remove any Dangerous Structure found to exist;

(4) issue orders or directives to any peace officer of the state, including a sheriff, or constable, or the chief of police of the City, to enforce and carry out the lawful orders or directives of the Commission;

(5) determine the amount and duration of the civil penalty the City may recover as provided for under the Texas Local Government Code, Chapter 54, subchapter B by filing a certified copy of the order with the district clerk for Collin County; or

(6) take any other appropriate action as set forth under this Section 1.12.

(h) Pre-hearing notice. Except as otherwise stated in this Section 1.12, when a Structure is found to be a Dangerous Structure by the Code Official, the Code Official must send or deliver written notice of a public hearing regarding the Dangerous Structure. The notice must be sent or delivered on or before the 10th day before the date of the hearing by personal delivery, by certified mail with return receipt requested, or by delivery by the

United States Postal Service using signature confirmation service, to the record owner(s) of the affected property, and each holder of a recorded lien against the affected property, as shown by the records in the office of the county clerk of the county in which the affected property is located if the address of the lienholder can be ascertained from the deed of trust establishing the lien or other applicable instruments on file in the office of the county clerk. The notice must also be provided to the public and to all unknown owners on or before the 10th day before the date of the hearing, by: (1) publishing the notice in a newspaper of general circulation in the City; and (2) posting a copy of the notice on the front door of each improvement situated on the affected property or as close to the front door as practicable. The notice must contain the name and address of the known owner(s) of the Structure, a legal description of the property, and the date, time, and place of the public hearing. The notice must contain a general description of the condition(s) of the Dangerous Structure(s) that must be remedied and must state that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with the applicable standards set forth in this PMC or referenced in this Section 1.12 and the time it will take to reasonably perform the work.

(i) Hearing and order. A hearing under this Section 1.12 must be held by the Commission. After the public hearing, if a Structure is found by the Commission to be a Dangerous Structure according to the standards set forth or referenced in this Section 1.12, the Commission may order that the Structure be vacated, secured, repaired, removed, or demolished by the owner within a reasonable time as provided by this Section 1.12. The Commission also may order that the Occupants, if any, be relocated within a reasonable time. In a public hearing to determine whether a Structure complies with the standards set out in this Section 1.12, the owner, lienholder, or mortgagee has the burden of proof to demonstrate the scope of any work that may be required to comply with the applicable standards set forth in this PMC or referenced in this Section 1.12 and the time it will take to reasonably perform the work.

(j) Content of order. The Commission's order shall be in writing and shall require the owner of the Structure to within 30 days vacate, secure, repair, remove, or demolish the Structure, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.

(k) If the Commission allows the owner more than 30 days to repair, remove, or demolish the Structure, the Commission shall establish specific time schedules for the commencement and performance of the work (said schedules must be incorporated into the order) and shall require the owner to secure the property in a reasonable manner from unauthorized entry while the work is being performed, as determined by the Commission.

(l) The Commission may not issue an order allowing the owner more than 90 days to repair, remove, or demolish the Structure or fully perform all work required to comply with the order unless the owner:

(1) submits a detailed plan and time schedule for the work at the hearing; and

(2) establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.

(m) If the Commission allows more than 90 days to complete any part of the work required to repair, remove, or demolish the Structure, the order shall require the owner to regularly submit progress reports to the Commission to demonstrate compliance with the time schedules established for commencement and performance of the work. The order may require that the owner appear before the Code Official or the Code Official's designee to demonstrate compliance with the time schedules. If the owner owns property, including Structures or improvements on property, within the municipal boundaries that exceeds $100,000 in total value, the Commission may include in the order a requirement that the owner post a cash or surety bond in an amount adequate to cover the cost of repairing, removing, or demolishing a Structure under this Section 1.12. In lieu of a bond, the Commission may require the owner, lienholder, or mortgagee to provide a letter of credit from a financial institution or a guarantee from a third party approved by the Commission. The bond must be posted, or the letter of credit or third-party guarantee provided, not later than the 30th day after the date the Commission issues the order.

(n) Post-hearing notice. If the owner was not present at the public hearing, the Commission shall send a copy of the order to the owner by certified mail, return receipt requested. If the owner or responsible party does not take the ordered action within the time allotted in the order, the Commission shall make a diligent effort to discover each mortgagee and lienholder having an interest in the Structure or in the property on which the Structure is located. The Commission satisfies the requirements to make a diligent effort, to use its best efforts, or to make a reasonable effort to determine the identity and address of an owner, a lienholder, or a mortgagee if the following records are searched:

(1) real property records of the county in which the Structure is located;

(2) records of the appraisal district in which the Structure is located;

(3) records of the secretary of state;

(4) assumed name records of the county in which the Structure is located;

(5) tax records of the municipality; and

(6) utility records of the municipality.

(o) Once steps have been taken to identify each mortgagee and lienholder as referenced in Section 1.12(n), the Code Official shall obtain personal delivery on or shall send by certified mail, return receipt requested, to each identified mortgagee and lienholder a notice containing:

(1) an identification, which is not required to be a legal description, of the Structure and the property on which it is located;

(2) a description of the violation of the City's standards that is present at the Structure; and

(3) a statement that the City will vacate, secure, remove, or demolish the Structure or relocate the Occupants

of the Structure if the ordered action is not taken within a reasonable time.

(p) Alternative Procedure. As an alternative to the procedure prescribed by Sections 1.12(n) and 1.12(o), the City may make a diligent effort to discover each mortgagee and lienholder before conducting the public hearing referenced in Section 1.12(i) and may give them a notice of and an opportunity to comment at the hearing. The notice must be sent certified mail, return receipt requested, and must state that the owner, lienholder, or mortgagee will be required to submit at the hearing proof of the scope of any work that may be required to comply with this the applicable standards set forth in this PMC or referenced in this Section 1.12 and the time it will take to reasonably perform the work. In addition, the City may file notice of the hearing in the Official Public Records of Real Property in the county in which the property is located. The notice must contain the name and address of the owner of the affected property if that information can be determined, a legal description of the affected property, and a description of the hearing including the time and place it is to be held. The filing of the notice is binding on subsequent grantees, lienholders, or other transferees of an interest in the property who acquire such interest after the filing of the notice, and constitutes notice of the hearing on any subsequent recipient of any interest in the property who acquires such interest after the filing of the notice. If the City operates under this Section 1.12(p), the order issued by the Commission as a result of the public hearing may specify a reasonable time as provided by this Section 1.12 for the Structure to be vacated, secured, repaired, removed, or demolished by the owner or for the Occupants to be relocated by the owner and an additional reasonable time as provided by this Section 1.12 for the ordered action to be taken by any of the mortgagees or lienholders in the event the owner fails to comply with the order within the time provided for action by the owner.

(q) Filing, publication and mailing of order. Regardless of which of the two procedures set forth above is exercised by the City, the Commission shall within 10 days after the date that the order is issued:

(1) file a copy of the order in the office of the City Secretary; and

(2) publish in a newspaper of general circulation in the municipality in which the Structure is located a notice containing:

(i) the street address or legal description of the property;

(ii) the date the hearing was held;

(iii) a brief statement indicating the contents of the order; and

(iv) instructions stating where a complete copy of the order may be obtained.

(r) If the City did not proceed under the alternative procedure described in Section 1.12(p), then, after the public hearing, the Code Official shall promptly mail by certified mail, return receipt requested, or personally deliver a copy of the order to the owner of the Structure and to any lienholder or mortgagee of the Structure. The City shall use its best efforts to determine the identity and address of any owner, lienholder, or mortgagee of the Structure.

(s) Remedies in the event of noncompliance. If the Structure is not vacated, secured, repaired, removed, or demolished, or the Occupants are not relocated within the allotted time, the City may vacate, secure, remove, or demolish the Structure or relocate the Occupants at its own expense. This Section 1.12 does not limit the ability of the City to collect on a bond or other financial guaranty that may be required elsewhere in this PMC. If the City incurs expenses under this Section 1.12, the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the Structure was located. The lien is extinguished if the property owner or another person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded and indexed in the office of the county clerk in the county in which the property is located. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the Structure was located, the amount of expenses incurred by the City, and the balance due.

(t) Undelivered notice. When the Code Official or other City agent mails a notice in accordance with this Section 1.12 to a property owner, lienholder, or mortgagee and the United States Postal Service returns the notice as "refused" or "unclaimed," the validity of the notice is not affected, and the notice is considered delivered.

(u) Additional authority to secure a substandard Structure. The City may secure a Structure that the Code Official determines:

(1) violates the minimum standards of this PMC or other minimum standards referenced in this Section 1.12; and

(2) is unoccupied or is occupied only by persons who do not have a right of possession to the Structure.

(v) Notice pertaining to securing Structure. Before the 11th day after the date a Structure is secured under Section 1.12(u), the City shall give notice to the owner by:

(1) personally serving the owner with written notice;

(2) depositing the notice in the United States mail addressed to the owner at the owner's post office address;

(3) publishing the notice at least twice within a 10-day period in a newspaper of general circulation in the county in which the Structure is located if personal service cannot be obtained and the owner's post office address is unknown; or

(4) posting the notice on or near the front door of the Structure if personal service cannot be obtained and the owner's post office address is unknown.

(w) Content of notice. The notice referenced under Section 1.12(v) under must contain:

(1) an identification, which is not required to be a legal description, of the Structure and the property on which it is located;

(2) a description of the violation of the City standards that is present at the Structure;

(3) a statement that the City will secure or has secured, as the case may be, the Structure; and

(4) an explanation of the owner's entitlement to request a hearing about any matter relating to the City's securing of the Structure.

(x) Hearing. After securing a substandard structure under Section 1.12(u), the Commission shall conduct a hearing at which the owner may testify or present witnesses or written information about any matter relating to the City's securing of the Structure if the owner files a written request for a hearing with the Commission within 30 days after the date the City secures the Structure. The Commission shall conduct the hearing within 20 days after the date the request is filed.

(y) Expenses. The City has the same authority to assess expenses for securing a substandard structure under Section 1.12(u) as it has to assess expenses under Section 1.12(s). A lien is created under this subsection (y) in the same manner that a lien is created under Section 1.12(s) and is subject to the same conditions as a lien created under that subsection.

(z) Seizure and sale of property to recover expenses. The City may foreclose a lien on property under this Section 1.12:

(1) in a proceeding relating to the property brought under Subchapter E, Chapter 33, Tax Code (V.T.C.A., Tax Code §33.91 et seq.); or

(2) in a judicial proceeding, if:

i. a Structure or other Structure on the property has been demolished;

(ii) a lien for the cost of the demolition of the Structure or other Structure on the property has been created and that cost has not been paid more than 180 days after the date the lien was filed; and

(iii) ad valorem taxes are delinquent on all or part of the property.

(aa) Salvage materials. When any Structure has been ordered demolished and removed, the City or its agent(s) shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition, removal and sale, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, to the owner, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

**1.13 Dangerous Equipment**

(a) Dangerous equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the Premises or within the 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.

(b) Procedure and remedies. Regarding equipment that is deemed dangerous, the provisions of section 1.12 shall apply as if set forth here in full, except that the word “equipment” shall take the place of the words “Structure” and “building.”

**1.14 Emergency Measures**

(a) Imminent Danger. When in the opinion of the Code Official, there is Imminent Danger of failure or collapse of a building or Structure which endangers life, or when any Structure or part of a Structure has fallen and life is endangered by the occupation of the Structure, or when there is actual or potential danger to the building Occupants or those in the proximity of any Structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or the operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to order and require the Occupants to vacate the Premises forthwith. The Code Official shall cause to be posted at each entrance to such Structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any Person to enter such Structure except for the purpose of securing the Structure, making the required repairs, removing the hazardous condition or demolishing the same.

(b) Temporary safeguards. Notwithstanding other provisions of this PMC, whenever, in the opinion of the Code Official, there is Imminent Danger due to an unsafe condition, the Code Official shall order the necessary work to be done, including the closing or securing of openings, to render such Structure temporarily safe, the removal of dangerous materials or debris, or the abatement of some other unsafe condition, whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the Code Official deems necessary to meet such emergency.

(Ord. No. 498-2010, adopted 5/25/10)

(c) Closing streets**.** When necessary for public safety, the Code Official shall temporarily close Structures and close, or order the authority having jurisdiction to close sidewalks, streets, Public ways and places adjacent to unsafe Structures, and prohibit the same from being utilized.

(d) Emergency repairs. For the purposes of this subsection, the Code Official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

(e) Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the City. The City may file a lien in accordance with the provisions of section 1.10(e) or institute appropriate action against the owner of the Premises where the unsafe Structure or unsafe condition is or was located, or take any other action allowed in law or in equity, for the recovery of such costs.

(Ord. No. 498-2010, adopted 5/25/10)

(f) Hearing. Any Person ordered to take emergency measures shall comply with such order forthwith. Any affected Person shall thereafter be afforded a hearing as described in section 1.20(h) of this PMC.

*(Ord. No. 498-2010, adopted 5/25/10)*

**1.15 Transfer of Ownership**

Transfer of ownership. It shall be unlawful for the owner of any Dwelling Unit, Structure or Premises who has been served with

a compliance order or upon whom a notice of violation has been served under any part of this PMC, to sell, transfer, mortgage, lease or otherwise dispose of such Dwelling Unit, Structure or Premises to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

**1.16 Reserved**

**1.17 Scope, References and Interpretation**

(a) Scope**.** Unless otherwise expressly stated, the following terms shall, for the purposes of this PMC, have the meanings shown in this section.

(b) Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

(c) Terms defined in other Codes. Where terms are not defined in this PMC and are defined in the International Building Code, International Fire Code, International Zoning Code, International Plumbing Code, International Mechanical Code, International Existing Building Code or the ICC Electrical Code, such terms shall have the meanings ascribed to them as in those Codes.

(d) Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

(e) Parts. Whenever the words "Dwelling Unit," "dwelling," "Premises," "building," “Structure,” "Rooming House," "Rooming Unit," "Housekeeping Unit" or "story" are stated in this PMC, they shall be construed as though they were followed by the words "or any part thereof or any Premises on which they are located."

(f) Geographic scope. To the extent that this PMC prohibits Nuisances, it applies within the City and within 5,000 feet outside the corporate limits. In this PMC, references to conditions or areas as being “in the City” or “within the City” or similarly described conditions or areas include all areas within the corporate limits and within 5,000 feet outside the corporate limits of the City.

**1.18 General Definitions**

*Abate* means to eliminate by removal, repair, rehabilitation, or demolition.

*Apartment Building* means any Structure containing three or more Dwelling Units used as a home, residence or sleeping place by one Person, or more than one Person maintaining a common household, to the exclusion of others, under a lease or rental contract or arrangement with one or more Owners of the Structure.

*(Ord. No. 475-2009, adopted 10-27-09)*

*Apartment Complex* means an Apartment Building or more than one adjacent Apartment Buildings, which are under common Ownership and management.

*(Ord. No. 475-2009, adopted 10-27-09)*

*Approved* means to approve by the Code Official.

*Basement* means that portion of a building which is partly or completely below grade.

*Bathroom* means a room containing plumbing fixtures including a bathtub or shower.

*Bedroom* means any room or space used or intended to be used for sleeping purposes.

*Code Official* means the official who is charged with the administration and enforcement of this PMC, or any duly authorized representative.

*Condemn* means to adjudge unfit for Occupancy.

*Dangerous Structure* means a Structure that:

(a) is dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare;

(b) regardless of its structural condition, is 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 children; or

(c) is boarded up, fenced, or otherwise secured in any manner if the building constitutes a danger to the public even though secured from entry or the means used to secure the building are inadequate to prevent unauthorized entry or use of the building.

*Dwelling Unit* means a single unit providing complete, independent living facilities for one or more Persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

*Easement* means that portion of land or property reserved for present or future use by a Person or agency other than the legal fee owner(s) of the property. The Easement shall be permitted to be for use under, on or above a lot or lots.

*Exterior Property* means the open space on the Premises and on adjoining property under the control of owners or Persons of such Premises.

*Extermination* means the control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, or trapping; or by use of any other Approved pest elimination methods.

*Garbage* means the animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

*Guard* means the building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

*Habitable Space* means the space in a Structure for living, sleeping, eating or cooking. Bathrooms, Toilet Rooms, closets, halls, storage or utility spaces, and similar areas are not considered Habitable Spaces.

*Housekeeping Unit* means a room or group of rooms forming a single Habitable Space equipped and intended to be used for

living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

*Imminent Danger* means a condition which could cause serious or life-threatening injury or death at any time.

*Infestation* means the presence, within or contiguous to, a Structure or Premises of insects, rats, vermin or other pests.

*Junked Vehicle* means a vehicle that is self-propelled and:

(a) does not have lawfully attached to it:

(1) an unexpired license plate; or

(2) a valid motor vehicle inspection certificate; and

(b) is:

(1) wrecked, dismantled or partially dismantled, or discarded; or

(2) inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if the vehicle is on Public property; or

(ii) 30 consecutive days, if the vehicle is on private property.

*Labeled* means devices, equipment, appliances, or materials to which has been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-Labeled items and by whose label the manufacturer attests to compliance with applicable nationally recognized standards.

*Let For Occupancy* or *Let* means to permit, provide or offer possession or Occupancy of a dwelling, Dwelling Unit, Rooming Unit, building, Premise or Structure by a Person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement or contract for the sale of land.

*Nuisance* means and includes:

(a) a condition or place that is a breeding place for flies;

(b) spoiled or diseased meats intended for human consumption;

(c) a restaurant, food market, bakery, other place of business, or vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;

(d) sewage, human excreta, wastewater, Garbage, or other organic Wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a Person or between Persons;

(e) a vehicle or container that is used to transport Garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;

(f) a collection of water in which mosquitoes are breeding in the limits of a municipality or a collection of water that is a breeding area for Culex quinquefasciatus mosquitoes that can transmit diseases regardless of the collection's location other than a location or property where activities meeting the definition of Section 11.002(12)(A), Texas Water Code, occur;

(g) a condition that may be proven to injuriously affect the public health and that may directly or indirectly result from the operations of a bone boiling or fat rendering plant, tallow or soap works, or other similar establishment;

(h) a place or condition harboring rats;

(i) the presence of ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public;

(j) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies;

(k) an object, place, or condition that is a possible and probable medium of disease transmission to or between humans; and

(l) any condition of property or matter prohibited by this PMC.

*Occupancy* means the purpose for which a building or portion thereof is utilized or occupied.

*Occupant* means any individual living or sleeping in a building, or having possession of a space within a building.

*Openable Area* means part of a window, skylight or door which is available for unobstructed Ventilation and which opens directly to the outdoors.

*Person* means any Person who has charge, care or control of a Structure or Premises which is Let or offered for Occupancy.

*Owner* means any Person, agent, Person, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such Person, and the executor or administrator of the estate of such Person if ordered to take possession of real property by a court.

*Operator* means an individual, corporation, partnership or any other group acting as a unit.

Pool means a permanent swimming Pool, permanent wading or reflection Pool, or permanent hot tub or spa over 18 inches deep, located at ground level, above ground, below ground, or indoors.

*Pool Yard* means an area that contains a Pool.

*Pool Yard Enclosure* or *Enclosures* means a fence, wall, or combination of fences, walls, gates, windows, or doors that completely surround a Pool.

*Premise(s)* means a lot, plot or parcel of land, Easement or Public way, including any Structures thereon.

*Public Accommodation* means any premises, Structure, building, room, or facility that is privately owned and operated for profit and that is generally accessible to the public regardless of whether payment is required for the public to gain access and includes, but is not limited to the following:

(a) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(b) a restaurant, bar, or other establishment serving food or drink;

(c) a motion picture house, theater, concert hall, stadium, or other place of exhibition entertainment;

(d) an auditorium, convention center, lecture hall, stadium, or other place of public gathering;

(e) a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;

(f) a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, truck stop, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(g) a terminal, depot, or other station used for specified public transportation;

(h) a museum, library, gallery, or other place of public display or collection;

(i) a park, zoo, amusement park, or other place of recreation;\

(j) a nursery, elementary, secondary, undergraduate, or postgraduate private school, or other place of education;

(k) a day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(l) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation. *7*

*Public Way* means any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for Public use.

*(Ord. No. 475-2009, adopted 10-27-09)*

*Rooming House* means a building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

*Rooming Unit* means any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

*Rubbish* means combustible and noncombustible waste materials, if they are inoperable or not in operation, or discarded, abandoned, dumped or stored on any Exterior Property areas in an unsightly, unsafe or unsanitary manner, except Garbage, and including but not limited to:

(a) the residue from the burning of wood, coal, coke and other combustible materials;

(b) paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, Yard trimmings, tin cans, metals, mineral matter, glass, crockery, lumber, dirt piles, construction debris, containers, and dust;

(c) refrigerators, appliances (and similar equipment and other electrical or motorized appliances or equipment);

(d) furniture, and,

(e) other similar materials.

*Strict Liability Offense* means an offense punishable by not more than $500 in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case.

*Structure* means that which is built or constructed or a portion thereof.

*Tenant* means a person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

*Toilet Room* means a room containing a water closet or urinal but not a bathtub or shower.

*Ventilation* means the natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from any space.

*Workmanlike* means executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

Yard means an open space on the same lot with a Structure.

**1.19 General Requirements**

(a) Scope. The provisions of this section shall govern the minimum conditions and the responsibilities of persons for maintenance of Structures, equipment and Exterior Property.

(b) Responsibility. The owner of the Premises shall maintain the Structures and Exterior Property in compliance with these requirements, except as otherwise provided for in this PMC. A Person shall not occupy as owner-occupant or permit another Person to occupy Premises which are not in a sanitary and safe condition and which do not comply with the requirements of this section. Occupants of a Structure, Dwelling Unit, Rooming Unit or Housekeeping Unit are responsible for keeping in a clean, sanitary and safe condition that part of the Dwelling Unit, Rooming Unit, Housekeeping Unit or Premises which they occupy and control.

(c) Vacant Structures and land. All vacant Structures and Premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

**1.20 Nuisances on Exterior Property Areas**

(a) Sanitation. All Exterior Property and Premises shall be maintained in a clean, safe and sanitary condition. The Occupant shall keep that part of the Exterior Property which such Occupant occupies or controls in a clean and sanitary condition. Nuisances specified in this section and other Nuisances—that do not constitute Dangerous Structures, Junked Vehicles or defective Swimming Pool Enclosures—are prohibited on all external property areas and must be Abated by the property owner or may Abated by the City in accordance with Section 1.11. The City may recover expenses and create and enforce liens as provided for under Section 1.10 when it Abates such a Nuisance condition.

(b) Grading and drainage. All Premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any Structure located thereon, with the exception of Approved retention areas and reservoirs.

(c) Sidewalks and driveways. All sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

(d) Weeds and tall grass. All Premises and Exterior Property shall be maintained free from weeds or plant growth in excess of 12 inches. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs; provided, however, this term shall not include cultivated flowers, gardens or agricultural crops. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice of violation under Section 1.11, they shall be subject to prosecution in accordance with Section 1.10. Upon failure to comply with the notice of violation, any duly authorized employee of the City or contractor hired by the City shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property as provided under Section 1.11.

(e) Dangerous weeds. The Code Official may cause to be Abated, without notice, weeds that:

(1) have grown higher than 48 inches; and,

(2) are an immediate danger to the health, life, or safety of any Person.

(f) Notice of Abatement of dangerous weeds. Not later than the 10th day after the date the City Abates weeds under this subsection, the City shall give notice to the property owner in the manner required by Section 1.11.

(g) Content of notice. The notice shall contain:

(1) an identification, which is not required to be a legal description, of the property;

(2) a description of the violations of the PMC that occurred on the property;

(3) a statement that the City Abated the weeds; and

(4) an explanation of the property owner's right to request a hearing about the City's Abatement of the weeds.

(h) Hearing. The City's Board of Adjustment or municipal court shall conduct a hearing on the Abatement of dangerous weeds under this subsection or on any other Abatement or corrective actions taken under Section 1.14 if, not later than the 30th day after the date of the Abatement of the weeds, the property owner files with the City Secretary a written request for a hearing. The hearing shall be conducted not later than the 20th day after the date a request for a hearing is filed. The Code Official shall determine whether to bring the hearing before the City's Board of Adjustment or municipal court such that the hearing may take place within said time period. The owner and Code Official or their respective legal representatives may testify or present any witnesses or written information or other relevant evidence relating to the City's Abatement, corrective action, or assessment of expenses related to the alleged violation. The purpose of the hearing shall not include any determination of any related criminal proceeding.

(i) Expenses. The City may assess expenses and create liens under this subsection as it assesses expenses and creates liens under subsection 1.10. A lien created under this subsection is subject to the same conditions as a lien created under subsection 1.10.

(j) Rodent harborage. All Structures and Exterior Property shall be kept free from rodent harborage and Infestation. Where rodents are found, they shall be promptly exterminated by Approved processes which will not be injurious to human health. After Extermination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

(k) Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate Wastes directly upon abutting or adjacent Public or private property or that of another Tenant.

(l) Accessory Structures. All accessory Structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

(m) Defacement of property. No Person shall willfully or wantonly damage, mutilate or deface any exterior surface of any Structure or building on any private or Public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an Approved state of maintenance and repair.

**1.21 Junked Vehicles**

(a) Authority to Abate Junked Vehicle. In accordance with this section and other provisions of this PMC, the Code Official is authorized to Abate and remove from private or Public property or a Public right-of-way a Junked Vehicle or part of a Junked Vehicle as a public Nuisance. The municipal court may issue necessary orders to enforce the provisions of this section.

(b) Reconstruction prohibited. Once removed, a Junked Vehicle may not be reconstructed or made operable.

(c) Notice to Texas Department of Transportation. Not later than the fifth day after a junk vehicle is removed, the Code Official shall provide notice to the Texas Department of Transportation identifying the vehicle or part of the vehicle.

(d) Right of entry. The Code Official has right of entry to inspect as set forth in section 108(d).

(e) Removal to another unlawful location. The relocation of a Junked Vehicle that is a public Nuisance to another location in the City or within 5,000 feet of the City's boundaries after a proceeding for the Abatement and removal of the Junked Vehicle has commenced has no effect on the proceeding if the Junked Vehicle constitutes a public Nuisance at the new location.

(f) Notice of violation. A notice of violation must provide not less than 10 days' notice of the nature of the Nuisance. The notice must be personally delivered or sent by certified mail, return receipt requested, to:

(1) the last known registered owner of the Nuisance;

(2) each lienholder of record of the Nuisance; and

(3) the owner or Occupant of:

(i) the property on which the Nuisance is located; or

(ii) if the Nuisance is located on a public right-of-way, the property adjacent to the right-of-way.

If the post office address of the last known registered owner of the Nuisance is unknown, notice may be placed on the Junked Vehicle or, if the owner is located, personally delivered. If notice is returned undelivered, action to Abate the Nuisance shall be continued to a date not earlier than the 11th day after the date of the return.

(g) Content of notice. The notice must state that:

(1) the Nuisance must be Abated and removed not later than the 10th day after the date on which the notice was personally delivered or mailed; and

(2) any request for a hearing must be made before that 10 day period expires.

(h) Hearing. The City's Board of Adjustment or municipal court shall conduct hearings under the procedures adopted under this subsection.

*(Ord. No. 498-2010, adopted 5/25/10)*

(i) Time for hearing. If a hearing is requested by a Person for whom notice is required under section 1.21(f), the hearing shall be held not earlier than the 11th day after the date of the service of notice.

(j) Purpose of hearing, burden of proof and presumption. The purpose of the hearing is so that it may be determined whether the vehicle constitutes a Junked Vehicle. The Person appealing the determination of the Code Official and the Code Official, or their respective legal representatives, shall have an opportunity to be heard and to question witnesses. The Person appealing the determination of the Code Official has the burden of proving that the vehicle is not a Junked Vehicle. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.

(k) Order to Abate. At the conclusion of the hearing, if it is determined that the property in question is a Junked Vehicle, an order shall be issued requiring removal of the vehicle to a lawful location within 10 days of the day the order is issued.

(l) Content of order. The order must state that if the owner does not remove the Junked Vehicle in accordance with the order, the City may cause the vehicle to be removed and any expenses incurred by the City will allow for a lien in the amount of those expenses against the real property on which the Junked Vehicle was located at the time of the violation. If the following information is available at the location of the Nuisance, a resolution or order requiring removal of the Nuisance must include the vehicle's:

(1) description;

(2) vehicle identification number;

(3) license plate number; and

(4) current location of the vehicle.

(m) Junked Vehicle disposal. A Junked Vehicle, including a part of a Junked Vehicle, may be removed to a scrap Yard, a motor vehicle demolisher, or a suitable site operated by a municipality or county. A municipality or county may operate a disposal site if its governing body determines that commercial disposition of Junked Vehicles is not available or is inadequate. A municipality or county may:

(1) finally dispose of a Junked Vehicle or vehicle part; or

(2) transfer it to another disposal site if the disposal is scrap or salvage only.

(n) Exceptions. Inapplicability of section. Procedures adopted under this section may not apply to a vehicle or vehicle part:

(1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other Public or private property; or

(2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or

i. that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are: maintained in an orderly manner;

(ii) not a health hazard; and

(iii) screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.

**1.22 Swimming Pools, Spas and Hot Tubs**

(a) Swimming Pools. Private Swimming Pools, hot tubs and spas shall be maintained in a clean and sanitary condition, and in good repair.

(b) Notice, hearing and enforcement. The City may repair, replace, secure, or otherwise remedy an enclosure or fence around a Swimming Pool that is damaged, deteriorated, substandard, dilapidated, or otherwise in a state that poses a hazard to the public health, safety, and welfare. The City may require the owner of the property on which the Swimming Pool or enclosure or fence is situated—after notice and hearing complying with the procedures set forth in sections 1.12(c) through 1.12(k)—to repair, replace, secure, or otherwise remedy an enclosure or fence of a swimming Pool that the City or an appropriate City official, agent, or employee determines violates the minimum standards adopted under this section.

(c) Other notice. If the enclosure or fence is on unoccupied property or is on property occupied only by Persons who do not have a right of possession to the property, the City shall give notice to the owner—in accordance with the procedures set out in sections 1.12(q) and 1.12(r)—of the City's action to repair, replace, secure, or otherwise remedy an enclosure or fence of a Swimming Pool.

(d) Expenses. If the City incurs expenses under this subsection, the City may assess the expenses on, and the City has a lien against, unless it is a homestead as protected by the Texas Constitution, the property on which the swimming Pool or the enclosure or fence is situated. The lien is extinguished if the property owner or another Person having an interest in the legal title to the property reimburses the City for the expenses. The lien arises and attaches to the property at the time the notice of the lien is recorded in the office of the county clerk in the county in which the property is situated. The notice must contain the name and address of the owner if that information can be determined with a reasonable effort, a legal description of the real property on which the Swimming Pool or the

enclosure or fence is situated, the amount of expenses incurred by the City, and the balance due. The lien is a privileged lien subordinate only to tax liens and all previously recorded bona fide mortgage liens attached to the real property to which the City's lien attaches.

(e) Entry. The Code Official acting under the authority granted by this section, may enter any unoccupied Premises at a reasonable time to inspect, investigate, or enforce the powers granted under this subsection or any ordinance adopted pursuant to this subsection. After providing a minimum of 24 hours' notice to the Occupant, the Code Official, acting under the authority granted by this section, may enter any occupied Premises to inspect, investigate, or enforce the powers granted under this subsection or any ordinance adopted pursuant to this subsection. If entry is refused or otherwise denied or obstructed, the Code Official must report the refusal or obstruction to the office of the City Attorney before proceeding with enforcement.

(f) Enclosure. Every private Swimming Pool, hot tub or spa must meet the following enclosure requirements:

(1) height of the Pool Yard Enclosure must be at least 48 inches as measured from the ground on the side away from the Pool;

(2) openings under the Pool Yard Enclosure may not allow a sphere four inches in diameter to pass under the Pool Yard Enclosure;

(3) if the Pool Yard Enclosure is constructed with horizontal and vertical members and the distance between the tops of the horizontal members is at least 45 inches, the openings may not allow a sphere four inches in diameter to pass through the enclosure;

(4) if the Pool Yard Enclosure is constructed with horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches, the openings may not allow a sphere 1 ¾ inches in diameter to pass through the enclosure;

(5) the use of chain link fencing materials is prohibited entirely for a new Pool Yard Enclosure that is constructed after January 1, 1994;

(6) the use of diagonal fencing members that are lower than 49 inches above the ground is prohibited for a new Pool Yard Enclosure that is constructed after January 1, 1994;

(7) decorative designs or cutouts on or in the Pool Yard Enclosure may not contain any openings greater than 1 ¾ inches in any direction;

(8) indentations or protrusions in a solid Pool Yard Enclosure without any openings may not be greater than normal construction tolerances and tooled masonry joints on the side away from the Pool;

(9) permanent equipment or Structures may not be constructed or placed in a manner that makes them readily available for climbing over the Pool Yard Enclosure; and

(10) the wall of a building may be part of the Pool Yard Enclosure only if the doors and windows in the wall comply with section 1.22(g). The owner of a multiunit rental complex with a Pool or a property owners association that owns, controls, or maintains a Pool is not required to:

(i) build a Pool Yard Enclosure at specified locations or distances from the Pool other than distances for minimum walkways around the Pool; or

(ii) conform secondary Pool Yard Enclosures, located inside or outside the primary Pool Yard Enclosure, to the requirements of this section.

(g) Doors. A door, sliding glass door, or French door may not open directly into a Pool Yard if the date of electrical service for initial construction of the building or Pool is on or after January 1, 1994. A door, sliding glass door, or French door may open directly into a Pool Yard if the date of electrical service for initial construction of the building or Pool is before January 1, 1994, and the Pool Yard Enclosure complies with subsections 1.22(g)1., 1.22(g)2.., or 1.22(g)3., as applicable.

(1) If a door of a building, other than a sliding glass door or screen door, opens into the Pool Yard, the door must have a:

(i) latch that automatically engages when the door is closed;

(ii) spring-loaded door-hinge pin, automatic door closer, or similar device to cause the door to close automatically; and

(iii) keyless bolting device that is installed not less than 36 inches nor more than 48 inches above the interior floor.

(2) If French doors of a building open to the Pool Yard, one of the French doors must comply with subsection 1.22(g)1.i. and the other door must have:

i. a keyed dead bolt or keyless bolting device capable of insertion into the doorjamb above the door, and a keyless bolting device capable of insertion into the floor or threshold; or,

(ii) a bolt with at least a ¾ inch throw installed inside the door and operated from the edge of the door that is capable of insertion into the doorjamb above the door and another bolt with at least a ¾ -inch throw installed inside the door and operated from the edge of the door that is capable of insertion into the floor or threshold.

(3) If a sliding glass door of a building opens into the Pool Yard, the sliding glass door must have:

(i) a sliding door handle latch or sliding door security bar that is installed not more than 48 inches above the interior floor; and

(ii) a sliding door pin lock that is installed not more than 48 inches above the interior floor.

(4) A door, sliding glass door, or French door that opens into a Pool Yard from an area of a building that is not used by residents and that has no access to an area outside the Pool Yard is not required to have a lock, latch, dead bolt, or keyless bolting device.

(5) A keyed dead bolt, keyless bolting device, sliding door pin lock, or sliding door security bar installed

before September 1, 1993, may be installed not more than 54 inches from the floor.

(6) A keyed dead bolt or keyless dead bolt, installed in a dwelling on or after September 1, 1993, must have a bolt with a throw of not less than one inch.

(h) Window and Window Screens. A wall of a building constructed before January 1, 1994, may not be used as part of a Pool Yard Enclosure unless each window in the wall has a latch and unless each window screen on a window in the wall is affixed by a window screen latch, screws, or similar means. This section does not require the installation of window screens. A wall of a building constructed on or after January 1, 1994, may not be used as part of a Pool Yard Enclosure unless each ground floor window in the wall is permanently closed and unable to be opened.

**1.23 Exterior Structure**

(a) General. The exterior of a Structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

(b) Protective treatment. All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

(c) Premises identification. Buildings shall have Approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of four inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).

(d) Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

(e) Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

(f) Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

(g) Roofs and drainage. The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the Structure. Roof drains, Gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public Nuisance.

(h) Decorative features**.** All cornices, belt courses, corbels, terracotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

(i) Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(j) Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

(k) Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

(l) Handrails and Guards. Every handrail and Guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(m) Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

(n) Glazing. All glazing materials shall be maintained free from cracks and holes.

(o) Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

(p) Insect screens. During the period from [DATE] to [DATE], every door, window and other outside opening required for Ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with Approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self-closing device in good working condition.

Exception: Screens shall not be required where other Approved means, such as air curtains or insect repellent fans, are employed.

(q) Doors. All exterior doors, door assemblies and hardware shall be maintained in good condition. Locks at all entrances to Dwelling Units, Rooming Units and guestrooms shall tightly secure the door. Locks on means of egress doors shall be in accordance with section 1.47(c).

(r) Basement hatchways. Every Basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

(s) Guards for Basement windows. Every Basement window that is openable shall be supplied with rodent shields, storm windows or other Approved protection against the entry of rodents.

(t) Building security. Doors, windows or hatchways for Dwelling Units, room units or Housekeeping Units shall be provided with devices designed to provide security for the Occupants and property within.

(u) Doors. Doors providing access to a Dwelling Unit, Rooming Unit or Housekeeping Unit that is rented, leased or Let shall be equipped with a deadbolt lock meeting specifications set forth herein. Such deadbolt locks shall be operated only by the turning of a knob or a key and shall have a lock throw of not less than one-inch. For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order. All deadbolt locks required by this section shall be designed and installed in such a manner so as to be operable inside of the Dwelling Unit, Rooming Unit or Housekeeping Unit without the use of a key, tool, combination thereof or any other special knowledge or effort.

(v) Windows. Operable windows located in whole or in part within six feet (1828 mm) above ground level or a walking surface below that provide access to a Dwelling Unit, Rooming Unit or Housekeeping Unit that is rented, leased or Let shall be equipped with window sash locking devices.

(w) Basement hatchways. Basement hatchways that provide access to a Dwelling Unit, Rooming Unit or Housekeeping Unit that is rented, leased or Let shall be equipped with devices that secure the units from unauthorized entry.

**1.24 Interior Structure**

(a) General. The interior of a Structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the Structure which they occupy or control in a clean and sanitary condition. Every owner of a Structure containing a Rooming House, Housekeeping Units, a hotel, a dormitory, two or more Dwelling Units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or Public areas of the Structure and Exterior Property.

(b) Structural members. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

(c) Interior surfaces**.** All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

(d) Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

(e) Handrails and Guards. Every handrail and Guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

(f) Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

**1.25 Handrails and Guardrails**

(a) General. Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have Guards. Handrails shall not be less than 30 inches (762 mm) high nor more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

*Exception: Guards shall not be required where exempted by the adopted building Code.*

**1.26 Rubbish and Garbage**

(a) Accumulation of Rubbish or Garbage. All Exterior Property and Premises, and the interior of every Structure, shall be free from any accumulation of Rubbish or Garbage.

(b) Disposal of Rubbish. Every Occupant of a Structure shall dispose of all Rubbish in a clean and sanitary manner by placing such Rubbish in Approved containers.

(c) Rubbish storage facilities. The owner of every occupied Premises shall supply Approved covered containers for rubbish, and the owner of the Premises shall be responsible for the removal of Rubbish.

(d) Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned nor stored on Premises without first removing the doors.

(e) Disposal of Garbage. Every Occupant of a Structure shall dispose of Garbage in a clean and sanitary manner by placing such Garbage in an Approved Garbage disposal facility or Approved Garbage containers.

(f) Garbage facilities. The owner of every dwelling shall supply one of the following: an Approved mechanical food waste grinder in each Dwelling Unit; an Approved incinerator unit in the Structure available to the Occupants in each Dwelling Unit; or an Approved leakproof, covered, outside Garbage container.

(g) Containers. The operator of every establishment producing Garbage shall provide, and at all times cause to be utilized, Approved leakproof containers provided with close-fitting covers for the storage of such materials until removed from the Premises for disposal.

**1.27 Extermination**

(a) Infestation. All Structures shall be kept free from insect and rodent Infestation. All Structures in which insects or rodents are found shall be promptly exterminated by Approved processes that will not be injurious to human

health. After Extermination, proper precautions shall be taken to prevent reinfestation.

(b) Owner. The owner of any Structure shall be responsible for Extermination within the Structure prior to renting or leasing the Structure.

(c) Single Occupant. The Occupant of a one-family dwelling or of a single-Tenant nonresidential Structure shall be responsible for Extermination on the Premises.

(d) Multiple Occupancy. The owner of a Structure containing two or more Dwelling Units, a multiple Occupancy, a Rooming House or a nonresidential Structure shall be responsible for Extermination in the Public or shared areas of the Structure and Exterior Property. If Infestation is caused by failure of an Occupant to prevent such Infestation in the area occupied, the Occupant shall be responsible for Extermination.

(e) Occupant. The Occupant of any Structure shall be responsible for the continued rodent and pest-free condition of the Structure.

Exception: Where the Infestations are caused by defects in the Structure, the owner shall be responsible for Extermination.

**1.28 Light, Ventilation and Occupancy Limitations**

(a) Scope. The provisions of this section shall govern the minimum conditions and standards for light, Ventilation and space for occupying a Structure.

(b) Responsibility. The owner of the Structure shall provide and maintain light, Ventilation and space conditions in compliance with these requirements. A Person shall not occupy as owner-occupant, or permit another Person to occupy, any Premises that do not comply with the requirements of this section.

(c) Alternative devices. In lieu of the means for natural light and Ventilation herein prescribed, artificial light or mechanical Ventilation complying with the International Building Code shall be permitted.

**1.29 Light**

(a) Habitable Spaces. Every Habitable Space shall have at least one window of Approved size facing directly to the outdoors or to a court. The minimum total glazed area for every Habitable Space shall be 8% of the floor area of such room. Wherever walls or other portions of a Structure face a window of any room and such obstructions are located less than three feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

Exception: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8% of the floor area of the interior room or space, but not less than 25 square feet (2.33 $m^2$). The exterior glazing area shall be based on the total floor being served.

(b) Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one- and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19$m^2$) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress stairways, shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of one foot candle (11 lux) at floors, landings and treads.

(c) Other spaces. All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe Occupancy of the space and utilization of the appliances, equipment and fixtures.

**1.30 Ventilation**

(a) Habitable Spaces. Every Habitable Space shall have at least one openable window. The total Openable Area of the window in every room shall be equal to at least 45% of the minimum glazed area required in section 1.29(a).

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least eight percent of the floor area of the interior room or space, but not less than 25 square feet (2.33$m^2$). The Ventilation openings to the outdoors shall be based on a total floor area being ventilated.

(b) Bathrooms and Toilet Rooms. Every Bathroom and Toilet Room shall comply with the Ventilation requirements for Habitable Spaces as required by section 1.30(a), except that a window shall not be required in such spaces equipped with a mechanical Ventilation system. Air exhausted by a mechanical Ventilation system from a Bathroom or Toilet Room shall discharge to the outdoors and shall not be recirculated.

Exception: Where specifically Approved in writing by the Code Official.

(c) Process Ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dust or mist is generated, a local exhaust Ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

(d) Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

**1.31 Occupancy Limitations**

(a) Privacy. Dwelling units, hotel units, Housekeeping Units, Rooming Units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

(b) Minimum room widths. A habitable room, other than a kitchen, shall not be less than seven feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than three feet (914 mm) between counter fronts and appliances or counter fronts and walls.

(c) Minimum ceiling heights. Habitable Spaces, hallways, corridors, laundry areas, Bathrooms, Toilet Rooms and habitable Basement areas shall have a clear ceiling height

of not less than seven feet (2134 mm). Exceptions are as follows:

(1) In one-and two-family dwellings, beams or girders spaced not less than four feet (1219 mm) on center and projecting not more than six inches (152 mm) below the required ceiling height.

(2) Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than six feet eight inches (2033 mm) with not less than six feet four inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.

(3) Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least seven feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of five feet (1524 mm) or more shall be included.

(d) Bedroom requirements. Every Bedroom shall comply with the requirements of sections 1.31(e) through 1.31(i).

(e) Area for sleeping purposes. Every Bedroom occupied by one Person shall contain at least 70 square feet (6.5 $m^2$) of floor area, and every Bedroom occupied by more than one Person shall contain at least 50 square feet (4.6 $m^2$) of floor area for each Occupant thereof.

(f) Access from Bedrooms. Bedrooms shall not constitute the only means of access to other Bedrooms or Habitable Spaces and shall not serve as the only means of egress from other Habitable Spaces. Units that contain fewer than two Bedrooms are exempt from this provision.

(g) Water closet accessibility. Every Bedroom shall have access to at least one water closet and one lavatory without passing through another Bedroom. Every Bedroom in a Dwelling Unit shall have access to at least one water closet and lavatory located in the same story as the Bedroom or an adjacent story.

(h) Prohibited Occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

(i) Other requirements. Bedrooms shall comply with the applicable provisions of this PMC including, but not limited to, the light, Ventilation, room area, ceiling height and room width requirements of this section; the plumbing facilities and water-heating facilities requirements of section 1.32 through section 1.38; the heating facilities and electrical receptacle requirements of section 1.39 through section 1.45; and the smoke detector and emergency escape requirements of section 1.46 through section 1.49.

(j) Overcrowding. Dwelling units shall not be occupied by more Occupants than permitted by the minimum area requirements of Table 1.31(j).

**TABLE 1.31(j) - MINIMUM AREA REQUIREMENTS**

| | MINIMUM AREA IN SQUARE FEET | | |
|---|---|---|---|
| SPACE | 1-2 Occupants | 3-5 Occupants | 6 or more Occupants |
| Living room [a,b.] | No requirements | 120 | 150 |
| Dining room [a,b.] | No requirements | 80 | 100 |
| Bedrooms | Shall comply with Section 1.31(d) | | |

For SI: 1 square foot=0.093 $m^2$

a. See Section 1.31(l) for combined living room/dining room spaces.
b. See Section 1.31(k) for limitations on determining the minimum Occupancy area for sleeping purposes.

(k) Sleeping area. The minimum Occupancy area required by Table 1.31(j) shall not be included as a sleeping area in determining the minimum Occupancy area for sleeping purposes. All sleeping areas shall comply with 1.31(d), (e) & (k).

(l) Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table 1.31(j) if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

(m) Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

(1) A unit occupied by not more than two Occupants shall have a clear floor area of not less than 220 square feet (20.4 $m^2$). A unit occupied by three Occupants shall have a clear floor area of not less than 320 square feet (29.7 $m^2$). These required areas shall be exclusive of the areas required by Items 2 and 3.

(2) The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and Ventilation conforming to this PMC shall be provided.

(3) The unit shall be provided with a separate Bathroom containing a water closet, lavatory and bathtub or shower.

(4) The maximum number of Occupants shall be three.

(n) Food preparation. All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve food in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food Wastes and refuse, including facilities for temporary storage.

**1.32 Plumbing Facilities and Fixture Requirements**

(a) Scope. The provisions of this section shall govern the minimum plumbing systems, facilities and plumbing fixtures to be provided.

(b) Responsibility. The owner of the Structure shall provide and maintain such plumbing facilities and plumbing fixtures in compliance with these requirements. A Person shall not occupy as owner-occupant or permit another Person to occupy any Structure or Premises which does not comply with the requirements of this section.

**1.33 Required Facilities**

(a) Dwelling units. Every Dwelling Unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

(b) Rooming Houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four Rooming Units.

(c) Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each 10 Occupants.

(d) Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

(e) Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in Toilet Rooms or Bathrooms.

**1.34 Toilet Rooms**

(a) Privacy. Toilet Rooms and Bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared Bathrooms and Toilet Rooms located on or in a Public Accommodation, Apartment Complex or Apartment Building.

(b) Location. Toilet Rooms and Bathrooms serving hotel units, Rooming Units, dormitory units or Housekeeping Units shall have access by traversing not more than one flight of stairs and shall have access from a common hall or passageway.

(c) Location of employee toilet facilities. Toilet facilities shall have access from within the employees' working area. The required toilet facilities shall be located not more than one story above or below the employees' working area and the path of travel to such facilities shall not exceed a distance of 500 feet (152 m). Employee facilities shall either be separate facilities or combined employee and public facilities.

Exception: Facilities that are required for employees in storage Structures or kiosks, which are located in adjacent Structures under the same ownership, lease or control, shall not exceed a travel distance of 500 feet (152 m) from the employees' regular working area to the facilities.

(d) Floor surface. In other than Dwelling Units, every Toilet Room floor shall be maintained to be a smooth, hard, nonabsorbent surface to permit such floor to be easily kept in a clean and sanitary condition.

(e) Design Standards. All Toilet Rooms and Bathrooms located in or on Public Accommodations, Apartment Complexes, or Apartment Buildings shall have installed to surround each toilet a toilet stall consisting of a combination of partitions and vertical supports (collectively referenced below as "toilet-stall components"). Each Toilet stall shall be configured to provide adequate privacy. The material of any toilet-stall component shall be opaque such that it is not in any manner transparent or translucent and shall have a smooth, hard, nonabsorbent surface to permit such materials to be easily kept in a clean and sanitary condition.

(f) Maintenance. All Toilet Rooms and Bathrooms located in or on Public Accommodations, Apartment Complexes, or Apartment Buildings shall be maintained in a sanitary condition and all materials used as toilet-stall components shall have no new or aftermarket perforations, holes, openings or damage that would permit viewing or the passage of matter into or out of a toilet stall through said materials.

(g) It shall be an offense for any owner, operator or manager of a premises to which this Section 1.34 applies to fail to construct and maintain at all times a Toilet Room or Bathroom in accordance with the standards and requirements set forth in said section. Each day that a condition exists that is a violation of said section is a separate offense.

(h) The standards and requirements set forth in this Section 1.34 are not intended to make any applicable federal or state law, standard, or restriction—including but not limited to the Americans with Disabilities Act—any less restrictive. To the extent that a standard or requirement in this section conflicts with an applicable federal or state law, the federal or state law shall take precedence to the extent of such conflict unless the standard or restriction in this section fulfills such applicable federal and state law, and is more restrictive than same without interfering with the purpose of same.

*(Ord. No. 475-2009, adopted 10-27-09)*

**1.35 Plumbing Systems and Fixtures**

(a) General. All plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. All plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

(b) Fixture clearances. Plumbing fixtures shall have adequate clearances for usage and cleaning.

(c) Plumbing system hazards. Where it is found that a plumbing system in a Structure constitutes a hazard to the Occupants or the Structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

**1.36 Water System**

(a) General. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an Approved private water system. All kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code.

(b) Contamination. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an Approved atmospheric-type-vacuum breaker or an Approved permanently attached hose connection vacuum breaker.

(c) Supply. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

(d) Water heating facilities. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a temperature of not less than 110°F (43°C). A gas burning water heater shall not be located in any Bathroom, Toilet Room, Bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An Approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

**1.37 Sanitary Drainage System**

(a) General. All plumbing fixtures shall be properly connected to either a Public Sewer system or to an Approved private sewage disposal system.

(b) Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

**1.38 Storm Drainage**

General. Drainage of roofs and paved areas, Yards and courts, and other open areas on the Premises shall not be discharged in a manner that creates a public Nuisance.

**1.39 Mechanical and Electrical Requirements**

(a) Scope. The provisions of this section shall govern the minimum mechanical and electrical facilities and equipment to be provided.

(b) Responsibility. The owner of the Structure shall provide and maintain mechanical and electrical facilities and equipment in compliance with these requirements. A Person shall not occupy as owner-occupant or permit another Person to occupy any Premises which do not comply with the requirements of this section.

**1.40 Heating Facilities**

(a) Facilities required. Heating facilities shall be provided in Structures as required by this section.

(b) Residential occupancies. Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, Bathrooms and Toilet Rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used to provide space heating to meet the requirements of this section.

Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

(c) Heat supply. Every owner and operator of any building who rents, leases or Lets one or more Dwelling Unit, Rooming Unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the Occupants thereof shall supply heat during the period from [DATE] to [DATE] to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, Bathrooms, and Toilet Rooms. Notwithstanding the foregoing, when the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code as adopted in The Anna City Code of Ordinances.

(1) In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

(d) Occupiable work spaces. Indoor occupiable work spaces shall be supplied with heat during months of October through March to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied. Exceptions to rule are:

(1) processing, storage and operation areas that require cooling or special temperature conditions; and

(2) areas in which Persons are primarily engaged in vigorous physical activities.

(e) Room temperature measurement. The required room temperatures shall be measured three feet (914 mm) above the floor near the center of the room and two feet (610 mm) inward from the center of each exterior wall.

**1.41 Mechanical Equipment**

(a) Mechanical appliances. All mechanical appliances, fireplaces, solid fuel-burning appliances, cooking appliances and water heating appliances shall be properly installed and maintained in a safe working condition, and shall be capable of performing the intended function.

(b) Removal of combustion products. All fuel-burning equipment and appliances shall be connected to an Approved chimney or vent. Exception: Fuel-burning equipment and appliances which are Labeled for unvented operation.

(c) Clearance. All required clearances to combustible materials shall be maintained.

(d) Safety controls. All safety controls for fuel-burning equipment shall be maintained in effective operation.

(e) Combustion air. A supply of air for complete combustion of the fuel and for Ventilation of the space containing the fuel-burning equipment shall be provided for the fuel-burning equipment.

(f) Energy conservation devices. Devices intended to reduce fuel consumption by attachment to a fuel-burning appliance, to the fuel supply line thereto, or to the vent outlet or vent piping therefrom, shall not be installed unless Labeled for such purpose and the installation is specifically Approved.

**1.42 Electrical Facilities**

(a) Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and section 1.43.

(b) Service. The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with the ICC Electrical Code. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

(c) Electrical system hazards. Where it is found that the electrical system in a Structure constitutes a hazard to the Occupants or the Structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the Code Official shall require the defects to be corrected to eliminate the hazard.

**1.43 Electrical Equipment**

(a) Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and Approved manner.

(b) Receptacles. Every Habitable Space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded-type receptacle or a receptacle with a ground fault circuit interrupter. Every Bathroom shall contain at least one receptacle. Any new Bathroom receptacle outlet shall have ground fault circuit interrupter protection.

(c) Lighting fixtures. Every public hall, interior stairway, Toilet Room, kitchen, Bathroom, laundry room, boiler room and furnace room shall contain at least one electric lighting fixture.

**1.44 Elevators, Escalators and Dumbwaiters**

(a) General. Elevators, dumbwaiters and escalators shall be maintained to sustain safely all imposed loads, to operate properly, and to be free from physical and fire hazards. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; or the certificate shall be available for public inspection in the office of the building operator.

(b) Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

**1.45 Duct Systems**

(a) General**.** Duct systems shall be maintained free of obstructions and shall be capable of performing the required function.

**1.46 Fire Safety Requirements**

(a) Scope. The provisions of this section shall govern the minimum conditions and standards for fire safety relating to Structures and exterior Premises, including fire safety facilities and equipment to be provided.

(b) Responsibility. The owner of the Premises shall provide and maintain such fire safety facilities and equipment in compliance with these requirements. A Person shall not occupy as owner-occupant or permit another Person to occupy any Premises that do not comply with the requirements of this section.

**1.47 Means of Egress**

(a) General. A safe, continuous and unobstructed path of travel shall be provided from any point in a building or Structure to the Public way. Means of egress shall comply with the International Fire Code.

(b) Aisles. The required width of aisles in accordance with the International Fire Code shall be unobstructed.

(c) Locked doors. All means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.

(d) Emergency escape openings. Required emergency escape openings shall be maintained in accordance with the Code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the Code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

**1.48 Fire-Resistance Ratings**

(a) Fire-resistance rated assemblies. The required fire-resistance rating of fire-resistance-rated walls, fire stops, shaft enclosures, partitions and floors shall be maintained.

(b) Opening protectives. Required opening protectives shall be maintained in an operative condition. All fire and smokestop doors shall be maintained in operable condition. Fire doors and smoke barrier doors shall not be blocked or obstructed or otherwise made inoperable.

**1.49 Fire Protection Systems**

(a) General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the International Fire Code.

(b) Smoke alarms. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and in dwellings not regulated in Group R occupancies, regardless of Occupant load at all of the following locations:

(1) on the ceiling or wall outside of each separate sleeping area in the immediate vicinity of Bedrooms.

(2) in each room used for sleeping purposes.

(3) in each story within a Dwelling Unit, including Basements and cellars but not including crawl spaces and uninhabitable attics. In dwellings or Dwelling Units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

(c) Single or multiple-station smoke alarms shall be installed in accordance with the International Fire Code.

(d) Power source. In Group R occupancies and in dwellings not regulated as Group R occupancies, single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exception: Smoke alarms are permitted to be solely battery operated in buildings where no construction is taking place, buildings that are not served from a commercial power source and in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior wall or ceiling finishes exposing the Structure, unless there is an attic, crawl space or Basement available which could provide access for building wiring without the removal of interior finishes.

(e) Interconnection. Where more than one smoke alarm is required to be installed within an individual Dwelling Unit in Groups R-2, R-3, R-4 and in dwellings not regulated as Group R occupancies, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. The alarm shall be clearly audible in all Bedrooms over background noise levels with all intervening doors closed.

Exceptions:

(1) interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.

(2) smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the Structure, unless there is an attic, crawl space or Basement available which could provide access for interconnection without the removal of interior finishes.

**1.50 Referenced Standards**

This section lists the standards that are referenced in various subsections of this document. The standards are listed herein by the promulgating agency of the standard, the standard identification, the effective date and title, and the section or sections of this document that reference the standard. The application of the referenced standards shall be as specified in section 1.05(g).

| Standard reference number | Title | Referenced in Code section number |
|---|---|---|
| ICC EC—03 | ICC Electrical Code™--Administrative provisions | 1.17(c), 1.42(b) |
| IBC—03 | International Building Code® | 1.17(c), 1.28(c), 1.47(c) |
| IEBC—03 | International Existing Building Code™ | 1.03, 1.05(c), 1.17(c) |
| IFC—03 | International Fire Code® | 1.17(c), 1.47(a), 1.47(b), 1.49(a), 1.49(d) |
| IMC—03 | International Mechanical Code® | 1.17(c) |
| IPC—03 | International Plumbing Code® | 1.17(c), 1.36(a), 1.40(b), 1.40(c) |
| IZC—03 | International Zoning Code® | 1.17(c) |

**1.51 Penalty**

Any violation of this section is punishable by a fine not to exceed $2,000 or the maximum amount allowed by law if that amount is less than $2,000, in which case the maximum amount is specified in subsection 1.10 of this section. Each day any such violation shall continue shall constitute a separate offense punishable hereunder.

*(Ord. No. 240-2005, adopted 11/22/2005)*

**Section 2. Registration of Contractors**

(a) It shall be unlawful for any person, firm, corporation or business entity in the business of contracting services which require, by State or local law, a license to perform such services, to erect, construct, enlarge, alter, repair, move, improve, remove, convert, or demolish any plumbing, electrical, mechanical, irrigation, or private sewage disposal system in Anna, unless such person, firm, corporation or business entity is the holder of a valid registration with Anna. Such person, firm, corporation or business entity shall be herein designated Applicant or Registrant.

(b) Registration shall also be required for any person, firm, corporation or business entity providing removal and disposal of construction debris services, including reroofing contractors, in the City of Anna, Texas.

(c) In extending the rights and privileges of such registration, Anna makes no statement of the technical competency of those so registered, and no manner of license is proffered.

(d) No permit to perform work on any plumbing, mechanical, electrical, irrigation, or private sewage wastewater disposal system shall be issued to any person, firm, corporation or business entity without prior registration; provided, however, property owners performing work on their primary residence shall be exempt from the registration requirements.

**2.02 Application for Registration**

An application for registration under this section shall provide to the office of the Chief Building Official the following information.

(a) The complete name, mailing address, and telephone number of the person, firm, corporation or entity making application: if the application is a firm, corporation or business entity, there must be provided the name and private mailing address of a principal of the firm, corporation or business entity who is authorized to bind the firm, corporation, or business entity in legal agreements. Each Applicant must also provide the names of all employees authorized to obtain permits;

(b) A copy of the Applicant's valid license, issued by the appropriate State board or agency with the authority to issue licenses for that particular trade. In the case of electricians, a Master license from another municipality is accepted;

(c) Proof of liability insurance in the amount of $500,000 or a bond in the amount of $500,000.

(d) Make, model, and registration number on all vehicles used in the removal and disposal of construction debris.

(e) Any other information deemed necessary by the Chief Building Official.

**2.03 Transfer of Registration Prohibited**

No registrant shall for any purpose allow its registration, by name or any other identification, to be transferred to, assigned to, or in any manner directly or indirectly used by, any person, firm, corporation or business entity other than the one to whom the registration was issued.

**2.04 Update of Information Required**

If a change occurs in the information previously provided [on an application], Registrant shall provide written notice of the updated information to the Chief Building Official within 30 days of the change.

**2.05 Registration Fee and Renewal**

The fee for registration shall be $50 and shall be submitted with each application for registration. Registration shall expire annually on the date of the initial registration and shall be routinely reactivated by the payment of a renewal fee if the application information remains accurate. The fee for renewal shall be the same as for the initial registration. No permits will be issued to a contractor whose registration has expired.

**2.06 Revocation of Registration**

A Registrant's privileges may be revoked, temporarily or permanently, for providing false or misleading information; failure to provide updated information within thirty days of such change; failure to licensure from the appropriate agency having licensing authority; suspension of licensure; transferring or allowing another person, firm, or corporation to use registration; failure to maintain certificate of liability insurance; conviction of two violations of this Code or any ordinance of the City of Anna within a 12 month period; or for any conviction of illegal dumping.

**2.07 Penalty for Violation**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 73-2003, adopted 4/22/2003)*

**Section 3. International Building Code Adopted; Amendments**

(a) The 2006 International Building Code, excluding all references to the 2003 International Energy Conservation Code and the 2003 International Property Maintenance Code, a copy of which is on file in the office of the City Secretary, as amended by this section, is hereby adopted by reference and designated as the Building Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the International Building Code.

*(Ord. No. 371-2008, adopted 4/8/2008)*

**Section 4. Demolition and Moving of Structures**

**4.01 Application and Definitions**

(a) This section applies to any property owner who seeks to move a Structure onto a lot or tract of land in the City limits, relocate a Structure away from a lot or tract of land in the City limits, or demolish a Structure in the City limits.

(b) The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*Applicant* shall mean a person in the process of applying for a permit under this section.

*Building Official* shall mean a Person authorized by the City Manager to perform the duties prescribed in this section.

*City* shall mean the City of Anna, Texas.

*Facility* shall mean any institutional, commercial, public, industrial or residential structure, installation, or building (including any structure, installation, or building containing condominiums or individual dwelling units operated as a residential cooperative, but excluding residential buildings having four or fewer dwelling units); any ship; and any active or

inactive disposal site. Any structure, installation or building that was previously subject to 40 CFR Part 61, Subpart M is not excluded, regardless of its current use or function.

*Permittee* shall mean a Person to whom a permit to move, relocate, or demolish any Structure, or portion thereof, within the corporate limits of the City has been issued.

*Person* shall mean any individual, corporation or other legal entity.

*Structure* shall mean any building, Facility or dwelling of any nature or design and it is the intent to give the broadest interpretation to the meaning of the term.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.02 Investigation of Application by Building Official**

(a) An Applicant shall: (1) submit an application on a City-approved application form; (2) include with the application all documents and information required for permit approval under this section or by the Building Official; and (3) pay any fee(s) and cost(s) required under this section or the City's Schedule of Fees.

(b) Upon filing of an application for a permit to move or relocate a Structure, the Building Official shall investigate the application and shall inspect the Structure to be moved from or relocated upon the lot or tract of land, and shall further inspect the lot or tract of land upon which the Structure is to be located or relocated from. The Building Official shall then determine whether the Structure, if moved or relocated as proposed, would or would not meet all of the requirements set forth or adopted by reference in this Code and in other applicable ordinances or regulations of the City. The Applicant shall be responsible to pay in advance any costs incurred by the City related to any necessary travel required to make any such inspection if the inspection requires travel outside of Collin County, Texas.

(c) Upon filing of an application for a permit to demolish a Structure, the Building Official shall investigate the application and shall inspect the Structure to be demolished if it is safe to do so. The Building Official shall then determine whether the demolition of the Structure would or would not meet all of the applicable requirements set forth or adopted by reference in this Code and in other applicable ordinances or regulations of the City. If, in the judgment of the Building Official, inspection of the Structure would be unreasonably dangerous, the Applicant shall be responsible to pay in advance any costs associated with making the Structure reasonably safe for inspection.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.03 Permit Required**

Prior to the issuance of any permit required under this section for the moving, relocation or demolition, of any Structure, the owner of the property on which the Structure is to be located shall obtain a permit in compliance with this section and any additional permits required under the building code(s), subdivision ordinance, or zoning ordinance of the City. A Structure or part of any Structure shall not be moved through or across any sidewalk, street, alley or highway within the City's corporate limits or extraterritorial jurisdiction without first obtaining a building permit from the Building Official. The Building Official, as a condition precedent to the issuance of any permit granted under this section, may require a bond to be executed by the Person desiring such permit, issued by a corporate surety licensed to issue surety bonds in the State of Texas in an amount reasonably calculated to cover the costs of damage or injury to persons or property arising from activities undertaken in connection with the permit.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.04 Issuance of Permit**

(a) Moving or Relocation Permit. After determining whether a moving or relocation permit under this section should be issued, the Building Official shall, subject to the approval of the City Manager, grant the application or deny the application, taking into consideration the location and size of the lot upon which the Structure is to be located, the size, condition and design of the Structure to be moved or relocated, the population density of the area, the location and use of the Structure, the uses and proximity of other Structures and land in the area, and the condition that the premises is proposed to be left. No request shall be granted if the Building Official shall find that:

(1) the Structure to be moved does not meet all the requirements of all applicable ordinances of the City;

(2) the lot or tract of land with the Structure thereon would not meet all of the requirements or the applicable ordinances of the City;

(3) the Structure to be moved has deteriorated more than 50% of its original value by virtue of fire or by virtue of age or normal wear and tear or other elements;

(4) the moving of such Structure upon or from the lot or tract of land would cause injury to Persons or property or damage to the streets or other public improvements or that the Applicant cannot provide evidence of adequate public liability insurance;

(5) the Applicant cannot provide evidence of the financial resources to bring the Structure up to City standards within 90 days after completion of the move;

(6) the Applicant cannot ensure that the grounds from which a Structure is removed will be completely cleared, leveled, and cleaned within 90 days after permit is issued; or

(7) the Applicant has failed to pay all required fees under Part IV, Article 2, Section 4.04 of the Anna Code (Schedule of Fees) or other costs required under this section.

*(Ord. No. 555-2011, adopted 8/23/2011)*

(b) Demolition Permit. After determining whether a demolition permit under this section should be issued, the Building Official shall, subject to the approval of the City Manager, grant the application or deny the application, taking into consideration the location and size of the lot upon which the Structure is located, the size, condition and design of the Structure to be demolished, the population density of the area, the location and use of the Structure, uses and proximity of other Structures and land in the area, and the condition that the premises is proposed to be left. No request shall be granted if the Building Official shall find that:

(1) the proposed demolition does not meet all the requirements of all applicable ordinances of the City;

(2) the lot or tract of land after demolition would not meet all of the requirements or the applicable ordinances of the City;

(3) the Applicant has failed to provide the Building Official with any asbestos-related survey, report or inspection records required under state or federal law (such documents being referenced under Part IV, Article 2, Section 4.04 of the Anna Code – Schedule of Fees as "submittal regarding asbestos");

(4) the moving of such Structure upon or from the lot or tract of land would cause injury to Persons or property or damage to the streets or other public improvements or that the Applicant cannot provide evidence of adequate public liability insurance;

(5) the Applicant cannot provide evidence of the financial resources to bring the building up to City standards within 90 days after completion of the move;

(6) the Applicant cannot ensure that the grounds from which a building is removed will be completely cleared, leveled, and cleaned within 90 days after permit is issued; or

(7) the Applicant has failed to pay all required fees under Part IV, Article 2, Section 4.04 of the Anna Code (Schedule of Fees) or other costs required under this section.

(c) If the Building Official shall grant the request to move, relocate or demolish the Structure, the Building Official, subject to approval by the City Manager, shall cause a written permit to be issued authorizing the moving, relocation or demolition of the Structure upon or from the lot or tract of land under such conditions, requirements, or restrictions as the Building Official shall determine.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.05 Issuance of Certificate of Occupancy**

No Person shall occupy any Structure permitted to be moved until the Building Official issues the Permittee a Certificate of Occupancy. No Certificate of Occupancy shall be issued until the Structure complies with all conditions of the permit and all requirements of all applicable sections of the Code.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.06 Additional Regulations Related to Demolition**

(a) A fee for each demolition permit shall be paid to the city in the amount which is established in the City's schedule of fees.

(b) All demolition work, including the removal of the foundation, must be completed within 60 days from the date of issuance of the demolition permit. Upon completion of the demolition work, the Permittee shall clean the premises of all debris, request an inspection of the premises, and then fill all excavations and grade the area with top soil or other material approved by the Building Official.

(c) All water and sanitary sewer services shall be disconnected and sealed in accordance with the appropriate city ordinances and said disconnects shall be inspected and approved by the public works and utilities department.

(d) A demolition permit may be revoked by the Building Official at any time upon a violation of the terms thereof, or upon a violation of any provision of this section or any other applicable ordinance of the City.

(e) All demolition permits shall expire after 30 days from issuance. The Building Official may allow an extension of 30 days due to extenuating circumstances.

(f) All demolitions shall be conducted in compliance with this section, other City ordinances and regulations, the Texas Asbestos Health Protection Act, as amended, and all other applicable state and federal law. In the case of any conflict between any provisions or any such statutes, regulations, or other law, the strictest provision shall govern.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.07 Liability of City**

Neither the City nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of permits issued or work done in compliance with the terms of this section.

*(Ord. No. 555-2011, adopted 8/23/2011)*

**4.08 Penalty**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 95-16, adopted 10/10/1995; Ord. No. 555-2011 adopted 08/23/2011)*

**Section 5. International Residential Code Adopted; Amendments**

(a) The 2006 Edition of the International Residential Code, excluding all references to the 2003 International Energy Conservation Code and the 2003 International Property Maintenance Code has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Residential Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the International Residential Code.

(Ord. No. 371-2008, adopted 4/8/2008)

(c) The International Residential Code is further amended as follows:

*R110.2 Change in ownership, tenancy or use.* Upon change of ownership or tenancy in a building or structure used as a single family or duplex dwelling, the owner or tenant shall request a Certificate of Occupancy from the building official. If the dwelling unit has been inspected for a Certificate of Occupancy within 1 year of the change of ownership

or tenancy, a new Certificate of Occupancy shall not be required.

Prior to allowing occupancy of the building the building official shall inspect the building for compliance with the requirements of all applicable ordinances and building code regulations, including but not limited to this code, the City's Property Maintenance Code, and the Comprehensive Zoning Ordinance. If violations are found the building official may prohibit occupancy of the structure and shall direct the owner or tenant to take such action as is necessary to bring the premises into compliance with the above codes and ordinances.

*(Ord. No. 461-2009, adopted 09-08-09)*

**Section 6. International Energy Code Adopted; Amendments**

(a) The 2006 Edition of the International Energy Code and the amendments thereto has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Energy Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the International Energy Code.

*(Ord. No. 372-2008, adopted 4/8/2008)*

**Section 7. International Fire Code Adopted; Amendments**

(a) The City of Anna has adopted the 2006 Edition of the International Fire Code including Appendix Chapters B, C, D, E, F and G. Copies of the Code and the amendments thereto, as referenced herein, are on file in the office of the City Secretary for permanent record and inspection. The mayor, or his authorized representative, is hereby authorized and directed to enforce all provisions of the International Fire Code, as adopted herein and as amended.

(b) The City Council hereby adopts the North Central Texas Council of Governments Recommended Amendments. Copies of the amendments in their entirety as referenced herein, are on file in the office of the City Secretary for permanent record and inspection.

*(Ord. No. 373-2008, adopted 4/8/2008)*

**Section 8. International Plumbing Code Adopted; Amendments**

(a) The 2006 Edition of the International Plumbing Code has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Plumbing Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the International Plumbing Code.

*(Ord. No. 376-2008, adopted 4/8/2008)*

**Section 9. Plumbing Connection Restrictions**

**9.01 General**

The following plumbing practices are deemed contrary to the public health and welfare and are hereby prohibited:

(a) no direct connection between the public drinking water supply and a potential source of contamination is permitted. Potential sources of contamination shall be isolated from the public water system by an air-gap or an appropriate backflow prevention device;

(b) no cross-connection between the public drinking water supply and a private water system is permitted. These potential threats to the public drinking water supply shall be eliminated at the service connection by the installation of an air-gap or a reduced pressure-zone backflow prevention device;

(c) no connection which allows water to be returned to the public drinking water supply is permitted;

(d) no pipe or pipe fitting which contains more than 8.0% lead may be used for the installation or repair of plumbing at any connection which provides water for human use; and

(e) no solder or flux which contains more than .2% lead can be used for the installation or repair of plumbing at any connection which provides water for human use.

**9.02 Service Inspection and Certification**

Prior to allowing any new permanent direct connection to the public drinking water supply, and prior to any re-establishment of service which has been suspended or terminated, the City of Anna shall cause an inspection to be made of the customer's plumbing system to insure that it complies with this Code and any other applicable federal, state and local regulations. Inspections resulting in approvals shall be evidenced by a written inspection certification signed by the inspector representing the City of Anna.

**9.03 Inspection Fees**

The customer shall pay to the City of Anna an inspection fee of $60 prior to final inspection of the customer's water system to insure compliance with this Code. Each additional inspection required as a result of a prior failed inspection shall require the payment of an additional inspection fee.

**9.04 Service Agreement**

The City of Anna shall require all new permanent connection drinking water supply customers and all customers seeking the re-establishment of service which has been suspended or terminated to enter into a written agreement, a copy of which is located in the office of the City Secretary at the City of Anna.

**9.05 Enforcement**

If any water service customer subject to the terms of this Code fails to comply with its terms or the terms of the Services Agreement with the City of Anna Municipal Water System, the City of Anna shall, at its option, either terminate service or properly install, test, and maintain an appropriate backflow prevention device at the service connection, or provide other appropriate remedial service. Any expenses incurred by the City of Anna associated with the enforcement of this Code or the Service Agreement with the customer shall be reimbursed by the customer. Failure of the customer to promptly reimburse the City shall result in termination of service.

*(Ord. No. 1998-16, adopted 12/8/1998)*

**Section 10. International Mechanical Code Adopted; Amendments**

(a) The 2006 Edition of the International Mechanical Code has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Mechanical Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the International Mechanical Code.

*(Ord. No. 375-2008, adopted 4/8/2008)*

**Section 11. International Fuel Gas Code Adopted; Amendments**

(a) The 2006 Edition of the International Fuel Gas Code has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Fuel Gas Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the International Fuel Gas Code.

*(Ord. No. 374-2008, adopted 4/8/2008)*

**Section 12. National Electrical Code Adopted; Amendments**

(a) The 2005 Edition of the National Electrical Code has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Electrical Code of the City of Anna, the same as though such Code were copied at length herein.

(b) The City Council has adopted the North Central Texas Council of Governments Recommended Amendments to the National Electrical Code.

*(Ord. No. 377-2008, adopted 4/8/2008)*

**Section 13. Outdoor Lighting Code**

**13.01 Outdoor Lighting Code Adopted**

The Outdoor Lighting Code has been adopted. Copies of the Code, and the amendments thereto, are on file in the office of the City Secretary is hereby adopted by reference and designated as the Outdoor Lighting Code of the City of Anna, the same as though such Code were copied at length herein.

**13.02 Penalty**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 260-2006, adopted 1/10/2006)*

**Section 14. Building Numbering System**

(a) All building numbers on the right side of a street shall be even and those on the left side shall be odd, from Fourth Street northward and southward.

(b) All building numbers on the right side of a street shall be even and those on the left side shall be odd, from Riggins Street eastward and westward.

(c) All north-south streets shall be numbered from Fourth Street; all east-west streets shall be numbered from Riggins Street. The first block will be the "100" block and all subsequent blocks shall be increased by increments of 100.

(d) The City Secretary will assign building numbers. All numbering will be under his supervision and will be recognized as the official number of the building.

**Section 15. Address Numbering System**

**15.01 System Established**

The owner of a lot or tract on which one or more buildings or structures have been located shall place the appropriate street address number in a clearly identifiable location on the front (that portion facing the street) of the primary building on the lot or tract. If more than one primary building is located on the lot or tract, each primary building shall be separately identified with an appropriate address number. Said numbers shall be not less than three inches in height and shall be located so that emergency service personnel can easily read and identify the address enumeration.

**15.02 Penalty**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof in the municipal court of the City of Anna shall be subject to a fine not to exceed the maximum as prescribed by law for each offense, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense and each and every instance of violation shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 95-09, adopted 10/10/1995)*

**Section 16. Lawn and Landscape Irrigation Restrictions**

(a) A person commits an offense if, during the period from June 1 through September 30 of any year and between the hours of 8:00 a.m. and 8:00 p.m. on any day during that period he irrigates with an automated irrigation system or causes or permits the irrigation or watering of any lawn or landscape located on premises owned, leased, or managed by him with an automated irrigation system.

(b) Any person commits an offense if he knowingly or recklessly irrigates, waters, or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased, or managed by the person in a manner that causes:

(1) a substantial amount of water to fall upon impervious areas instead of upon the lawn or landscape, such that a constant stream of water overflows from the

lawn or landscape onto a street or other drainage area; or

(2) an irrigation system or other lawn or landscape watering device to operate during any form of precipitation or during freezing conditions causing ice to form on streets and sidewalks.

(c) A person commits an offense if, on premises owned, leased, or managed by him, be operated a lawn or landscape irrigation device that:

(1) has any broken or missing sprinkler head; or

(2) has not been properly maintained in a manner that prevents the waste of water.

**16.02 Rain Sensing Devices and Freeze Gauges**

(a) Any new irrigation system installed within the City on or after May I, 2003, must be equipped with rain sensing devices and freeze gauges Approved as to number and type by the Building Official.

(b) A person commits an offense if, on premises owned, leased, or managed by him, he:

(1) installs, or causes or permits the installation of, a new irrigation system in violation of section 19.02(a);

(2) operates, or causes or permits the operation of, and irrigation system that does not comply with section 19.02(a).

**16.03 Variances**

The Building Official may, in special cases, grant variances from the provisions of section 19.02(a) to persons demonstrating extreme hardship and need. The Building Official may grant variances only under all of the following circumstances and conditions.

(a) The applicant must sign a compliance agreement on forms provided by the Building Official, and approved by the City Attorney, agreeing to irrigate or water a lawn or landscape only in the amount and manner permitted by the variance.

(b) Granting of a variance must not cause an immediate significant reduction in the City's water supply.

(c) The extreme hardship or need requiring the variance must relate to the health, safety, or welfare of the person requesting it.

(d) The health, safety, and welfare of other persons must not be adversely affected by granting the variance.

**16.04 Revocation of Variances**

The Building Official may revoke a variance granted when the director determines that:

(a) the conditions of section 19.03 are not being met or are no longer applicable;

(b) The terms of the compliance agreement are being violated; or

(c) The health, safety, or welfare of other persons requires revocation.

**16.05 Penalty**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 70-2003, adopted 4/22/2003)*

**Section 17. Alarm Requirements**

**17.01 Definitions**

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*Alarm Site* means a single premises or location with one street address served by an Alarm System or systems that are under the control of one Owner, the Owner's agent or a person in control of the premises served by the Alarm System.

*Alarm System* means a device or system arranged to signal the presence of an intrusion or hazard requiring urgent attention and to which police, fire, or other emergency service would normally respond if notified of the signal, and includes, but is not limited to systems that:

(a) signal intrusions or hazards as to vehicles or other private property as a part of a larger system that monitors the Alarm Site provided that the vehicle or other private property is placed permanently at the Alarm Site; and

(b) are commonly referred to as "burglar Alarm Systems," "holdup alarms," "robbery alarms," "medical alarms," "fire alarms," "panic/alert systems" and similar systems.

Notwithstanding the foregoing, "Alarm System" does not include:

(c) a system that monitors a vehicle or any other item of private property that is not permanently located at an Alarm Site; nor

(d) a system designed to alert only the Owner or inhabitants of a premises and having no audible exterior alarm, Automatic Dialing Device, or other device that automatically sends an alert signal to an emergency service provider or to persons engaged in relaying an alert signal to an emergency service provider at a location other than the Alarm Site.

*Alarm User* means the Owner, agent or person in control of the premises where an Alarm System is maintained within the corporate boundaries of the City.

*Automatic Dialing Device* means the component of an Alarm System that automatically sends over regular telephone lines or by other electronic means, by Direct Connection or otherwise, a prerecorded voice message or signal of any kind indicating the existence of the emergency situation that the Alarm System is designed to detect.

*Burglar Alarm System* means an Alarm System designed to signal an entry or attempted entry into the area protected by the system.

*City* means the City of Anna, Texas.

*Commercial Alarm Site* means a premise with an Alarm System that is intended or used for the purpose of conducting a commercial business enterprise.

*Department* means the City of Anna Police Department or its designee.

*Direct Connect* means an Alarm System that has the capability of transmitting system signals to and receiving them at an agency or site designated by the Department.

*Direct Line* means a telephone line, leading directly from a central station or modified central station to the dispatch center for the Department, which is for use only to report emergency signals on a person-to-person basis.

*False Alarm* means the activation of an Alarm System which is not the result of an emergency or threat of emergency for which the Alarm System was designed to give notice and, in the case of a Burglar Alarm System, for which the responding police officer finds no evidence of any criminal activity. This term also includes activation of an Alarm System or Burglar Alarm System through mechanical or electronic failure, malfunction, improper installation, or the negligence of the Owner/operator or lessee of an Alarm System, or of their employees or agents. The Department may not consider a False Alarm to have occurred unless a response is made by an agency of the municipality within 30 minutes of the alarm notification and the agency determines from an inspection of the interior or exterior of the premises that the alarm was false. This term does not include activations triggered by:

(e) an attempted illegal entry of which there is visible evidence, illegal entry, or other demonstrable criminal activity;

(f) hurricanes, tornadoes, earthquakes, thunderstorms, electrical storms, utility power surges, or surges through phone lines;

(g) a person acting under a reasonable belief that an emergency exists;

(h) accident, mistake or testing if then followed by an immediate call to the Department by the alarm monitoring company canceling the alarm, such call having been made prior to the dispatch of any officer; or

(i) alarms resulting from the servicing of an Alarm System by an alarm business when, prior to such repair or service, the Alarm User or their agent has notified the Department, in person or by call that the Alarm System will be repaired or serviced at the particular date and time coinciding with that alarm.

*Key-Holder* means any person that has authority over and can respond to an Alarm Site at police request, to disarm or re-set the alarm, or both.

*Permitted Site* means an Alarm Site for which a valid and unexpired permit has been issued, provided that each permit holder has current information on file.

**17.02 Permit Required**

A person commits an offense if the person installs, operates, or causes to be operated, an Alarm System without first obtaining a permit from the Department. A separate permit is required for each Alarm Site. Operation of a non-Permitted Site is a citable offense, with a maximum fine of $200. In addition, the Department may bill the Owner or operator for each police dispatch to a non-permitted Alarm Site. The schedule of fees for such billing is set forth in subsection 17.07 of this section.

**17.03 Application for Permit**

Each permit application must contain the name, address, telephone number (home and business if applicable) of the person(s) responsible for operating and maintaining the Alarm System and responding to an alarm signal. An application for a permit for a Commercial Alarm Site must also contain the names and phone numbers (home and business) of two people that will respond to the Alarm Site within 30 minutes of being requested by the Department.

**17.04 Permit Fee**

A nonrefundable fee of $40 per year is required for each permit or renewal of a permit. A permit is issued for one year and must be renewed each year thereafter by payment of the permit fee. It is the responsibility of the permit holder to pay the renewal fee no later than the seventh day of the month following the renewal month ("the renewal due date"). If the permit is not renewed on or before the renewal due date, it expires and is no longer valid. The Department, at its discretion, may renew an expired permit upon payment of all fees due, plus late fees accumulating at the rate of $10 for every 30 days that have elapsed since the renewal due date. All permit fees collected will be placed into the Department's budget and maintained at the discretion of the Chief of Police, subject to budgeting decisions by the City Council.

**17.05 Permit Transferability**

An alarm permit cannot be transferred to another person or to a new Owner. Upon transfer of Ownership of an Alarm Site, the permit automatically expires and the new Owner must apply for a new permit.

**17.06 Permit Modifications**

It is the permit holder's sole responsibility to promptly provide the Department with any information that changes the information provided in the permit application, including but not limited to the name and contact information of the person(s) designated to respond to an alarm. Failure to provide such information to the Department within five business days of actual knowledge that information on the permit application is no longer current is a violation of this section.

**17.07 Fees**

The fees for False Alarms depend on the number of False Alarms occurring at a Permitted Site on an annual basis as follows:

(a) A non-Permitted Site is allowed one free False Alarm call, at which time the Department will endeavor to give notice of the requirements of this section to the Owner or person in charge of the non-Permitted Site. However, ignorance of the requirements of this section for any reason is not a defense to prosecution for violating this section and does not relieve a person from paying any applicable fees or late fees.

| NUMBER OF FALSE ALARMS | FEE |
|---|---|
| 1-3 | NO FEE |
| 4-8 | $40/per False Alarm |
| 9 or more | $80/ per False Alarm |

(b) A non-Permitted Site is allowed one free False Alarm call, at which time the Department will endeavor to give notice of the requirements of this section to the Owner or person in charge of the non-Permitted Site. However, ignorance of the requirements of this section for any reason is not a defense to prosecution for violating this section and does not relieve a person from paying any applicable fees or late fees.

**17.08 Restrictions on Audible Alarms**

All Alarm Systems equipped with any exterior sound-producing device, including, but not limited to, gongs, buzzers, sirens, bells or horns, must be equipped with a time device that limits the operation of such sound-producing device to a continuous 10 minutes; except that Commercial Alarm Sites must be equipped with a time device that limits the operation of such sound-producing device to a continuous 15 minutes.

**17.09 Requirements for Automatic Dialing Devices**

An Alarm Site that transmits automatic alarm notifications directly to the Collin County Communications Center or other law enforcement authority must provide at least the following information:

(a) the type of alarm event (burglary, robbery, fire, etc.);

(b) the address of the Alarm Site;

(c) the place on the premises, if possible, that the alarm was activated (window, door, garage, etc.);

(d) the phone number of a contact person who will be able to respond if necessary; and

(e) the alarm permit number.

**17.10 Notification Required by Alarm Monitor**

If the monitor of an Alarm System lacks any information that corroborates that an alarm signal received by the monitor is not a False Alarm, the monitor must make an attempt to contact the occupant of the Alarm Site before contacting the Department. If the monitor is initially unable to contact the occupant, the monitor must continue attempts to contact the occupant after contacting the Department, and, if necessary, must continue said attempts during the Department's response to the alarm signal. The monitor must promptly notify the Department of the results of the attempts to contact the occupant of the Alarm Site. If it is a Commercial Alarm Site, the monitor must first attempt to notify the Department and then attempt to notify a person responsible for the Alarm Site, then attempt to notify the Department again to provide the status of a Key Holder response.

**17.11 Penalty**

Any person violating this section shall be deemed guilty of a Class C misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 264-2006, adopted 5/23/2006)*

**Section 18. Building Permits Required in City's Extraterritorial Jurisdiction**

(a) Before construction of any structure proposed to be located within the City's extraterritorial jurisdiction, plans for construction shall be submitted for review by the City or its designated plan reviewer. The plans shall meet the same requirements and are subject to the same standards of review as plans for structures located within the City's corporate limits.

(b) Fees shall be collected for building permit review and inspections at the same rate charged for structures located within the City's corporate limits.

(c) Before the issuance of a building permit, the property upon which the proposed structure is planned to be located shall have been platted in accordance with all City requirements applicable to development in the City's extraterritorial jurisdiction.

*(Ord. No. 406-2008, adopted 9/23/2008)*

**Section 19. Multi-Family Dwelling Regulations**

**19.01 Title, Purpose, and Scope**

(a) Title. This section of The Anna City Code of Ordinances ("Anna Code") is titled the "Multi-Family Dwelling Regulations." It is referenced below as this "section."

(b) Purpose. The purpose of this section is to provide minimum standards and regulations to help safeguard and preserve life or limb, property, and public welfare by regulating the licensing, use and maintenance of Multi-Family Dwelling Units and associated Premises within the City.

(c) Scope. This section applies to all zoning districts, land and properties within the City, including all vacant and occupied Apartment Complexes.

(d) Other law. If state statutes or other ordinances of the City conflict with the standards and regulations of this section, the more restrictive standard (or regulation) prevails.

(e) Intent. It is the intent of this section to regulate and control public nuisances and other conditions and circumstances that adversely affect the health, safety, and welfare of the general public; it is not intended that this section be interpreted or enforced to require the City to intervene in matters that are primarily personal or private in nature, more appropriately resolved between or among private persons or interests.

**19.02 Definitions**

Where terms are not defined in this subsection, they have their ordinary accepted meaning within the context with which they are used. Words in the singular form include the plural. Words in the masculine gender include the feminine, and the feminine gender include the masculine. The following terms are defined and apply to this section unless defined differently elsewhere in this section:

*Apartment Building* means any Structure containing three or more Dwelling Units used as a home, residence or sleeping place by one Person, or more than one Person maintaining a common household, to the exclusion of others, under a lease or rental contract or arrangement with one or more Owners of the Structure.

*Apartment Complex* means an Apartment Building or more than one adjacent Apartment Buildings, which are under common Ownership and management.

*Building Official* means the Building Official of the City of Anna or the City Manager's designee.

*Building Code* means the applicable provisions of the Codes adopted under the Anna Code, Part II, Article 8.

*City* means the City of Anna, Texas.

*Dwelling Unit* means a Structure, or that part of a Structure, which is used as a residence or sleeping place by one Person, or more than one Person maintaining a common household, to the exclusion of others, under a lease or rental contract or arrangement with one or more Owners of the Structure.

*Family* means a number of individuals living together as a single housekeeping unit, in which not more than three individuals are unrelated by blood, marriage, or adoption.

*Landlord* means an Owner, Resident Manager, or Property Manager of an Apartment Complex or any other Person held out by any Owner, Resident Manager, and Property Manager as the appropriate Person with whom the Tenant normally deals with concerning a Rental Agreement, Apartment Building or Apartment Complex.

*License* means a License issued by the Building Official for the operation of an Apartment Complex in accordance with this section and referred to as "License" in this section.

*Multi-Family Dwelling Unit* means a Dwelling Unit comprising part of an Apartment Building.

*Owner* means a Person claiming, or in whom is vested, the Ownership, dominion or title of real property, including, but not limited to:

(1) holder of fee simple title;

(2) holder of life estate:

(3) holder of leasehold estate for an initial term of five years or more;

(4) a Landlord, as defined in this subsection;

(5) a buyer in a contract for deed; or

(6) a mortgagee, receiver, executor or trustee in control of real property; but not including the holder of a leasehold estate or tenancy for an initial term of less than five years.

*Person* means and includes a natural Person, corporation, business trust, estate, trust, partnership or association, two or more Persons having a joint interest, or any other legal or commercial entity.

*Premises* means a lot, plot or parcel of land, including any Structure thereon, and furthermore, including an Apartment Building or Apartment Complex, its appurtenances, grounds and facilities held out for the use of Tenants generally and any other area or facility promised for the Tenant's use.

*Property Manager* means a Person who for compensation has managing control of real property for an Owner.

*Resident Manager* means a Property Manager or agent of a Property Manager who resides in the Apartment Complex or elsewhere on the associated Premises.

*Rental Agreement* means and includes all agreements, written or oral, which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a Structure.

*Structure* means that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

*Tenant* means any Person who occupies a Structure for living or dwelling purposes under a Rental Agreement or with or without the consent of the Landlord who claims ownership or control of the Structure.

*Trade Name* means the common name of an Apartment Complex as held out by an Owner in signage, advertising, or otherwise, if such name is in any way different than the legal name of the Owner.

**19.03 License Required; Registration of Trade Name**

(a) It shall be unlawful for any Person to own, operate, manage or maintain an Apartment Complex in the City without a current and valid License as described herein having been issued for same. Any Person owning, operating, managing, or maintaining an Apartment Complex at more than one location must obtain a License for each separate location. The License issued to an Owner authorizes such Owner and its bona fide agents or employees to lease out a Multi-Family Dwelling Unit to Tenants at the locations of the Premises specified in the License.

(b) An Owner must register with the Building Official the Owner's full legal name and the Trade Name of an Apartment Complex, if any, and may not use or permit to be used more than one trade name at a single location.

**19.04 License Application, Renewal and Expiration**

(a) An applicant for a License or his agent must complete, execute and file with the Building Official a written application form provided by the City for that purpose. If an applicant owns an Apartment Complex at more than one location, a separate application must be completed, executed, and filed for each location. The following information must be disclosed in the application:

Name, address, telephone of Owner, Property Manager, and any Resident Manager;

The trade name of Apartment Complex;

The number of Dwelling Units broken down as to number of efficiencies, one-bedroom, two-bedroom and three-bedroom;

Acknowledgement of receipt of a copy of this section as amended and a pledge to abide by same as a condition to receiving and maintaining a License.

(b) All Apartment Complexes in operation at the time that this section becomes effective must apply for a License by December 31, 2009.

(c) Licenses issued on or before December 31, 2009 expire December 31, 2010. All Licenses issued after December 31, 2009 expire the 31st day of December of the year in which they are issued.

(d) The Building Official may, at any time, require additional relevant information of the Owner or Landlord to clarify items on the application. The applicant must promptly

provide the information in a written document signed by the applicant, unless the requirement for a written document is waived by the Building Official.

(e) Upon changing ownership of an Apartment Complex, a new License must be obtained within 30 days of the change with the fee for the new License being charged on a prorated basis. The Owner shall notify the City within 30 days of the change of ownership, Property Manager or Resident Manager.

**19.05 License Fees**

The annual fee for an Apartment Complex License is $100 or $25 per Dwelling Unit, whichever is greater. The fee for issuing a replacement for a lost, destroyed, or mutilated License is $25. The fee is payable to the City upon issuance of the License. No refund of a License fee will be made, even in cases in which an Apartment Complex is sold or its operation is discontinued during the period for which a License was originally granted.

**19.06 License Display, Replacement and Transferability**

(a) Each License issued under this section must be posted and displayed in an Apartment Complex office in a conspicuous location to which Tenants have access. If there is no office on site, an Owner shall provide each Tenant a copy of the license.

(b) A replacement License may be issued for a lost, destroyed or mutilated License upon application on the form provided by the Building Official. A replacement License must have the word “Replacement” stamped across its face and must bear the same number as the one it replaces.

(c) An Apartment Complex License licenses only one Person to operate a single Apartment Complex and is not assignable or transferable, even as to a subsequent purchaser of an Apartment Complex.

(d) The form of the License must be prepared by the Building Official.

**19.07 Appointment, Powers and Duties of Building Official**

(a) The Building Official is designated as the administrator of this section.

(b) In addition to the powers and duties previously prescribed for the Building Official, as administrator of this section he or she is required to:

(1) administer and enforce all provisions of this section;

(2) keep records related to an copies of License applications and Licenses issued;

(3) adopt rules and regulations, not inconsistent with the provisions of this section, with respect to the form and content of applications for Licenses, the investigation of an application, and other matters incidental or appropriate to his or her powers an duties as may be necessary for the property administration and enforcement of the provisions of this section and within the scope of the subject matter and intent of this section; and,

(4) conduct, on his or her own initiative, periodic investigations of Apartment Complexes throughout the City concerning compliance with this section.

**19.08 Inspections, Re-inspections and Certificate of Occupancy**

(a) The Owner, as a condition to the issuance of the License required by this section, must consent to allow—and by accepting a License does consent to grant and allow—the Building Official to make the following inspections of the Apartment Complex or Premises at any reasonable time that the Building Official determines an inspection is needed to ensure compliance with this section:

(1) right and access to inspect all portions of the Premises and Structures located on the Premises. This includes all storage areas, community buildings, swimming pools, athletic facilities, club rooms, equipment rooms and all other portions of the facilities not constructed as Dwelling Units on the Premises upon reasonable advance notice being given to the Owner, Tenant, Landlord, or Property Manager, as necessary;

(2) right and access to inspect all unoccupied parts of any Structure;

(3) right and access to inspect occupied Dwelling Units with the permission of either the Owner, Property Manager, Resident Manager, Tenant, occupant, or Person in control, as necessary; and

(4) annually, once each year, the Owner, Resident Manager or Property Manager shall make all dwelling units in the apartment complex available for inspection by the Building Official. The Building Official and the Owner, Resident Manager or Property Manager shall agree on a reasonable date and time for each annual inspection. If mutual agreement cannot be reached as to an inspection time, the annual inspections shall occur between December 1 and December 31 of each year.

(b) The Building Official may enforce the provisions of this section and upon presentation of proper identification and notification to the Owner, Property Manager or Resident Manager may enter any unit between the hours of 8:00 a.m. and 5:00 p.m.; provided, however, that in cases of emergency where hazards are known to exist, which may involve imminent injury to Persons, loss of life or severe property damage, the Building Official may enter the aforementioned dwellings at any time during such emergencies for the purpose of emergency response. In any instance where the Building Official is denied admission to inspect any Premises, inspection shall be made only under authority of a warrant issued by a magistrate or judge authorizing the inspection. Unlawful or unreasonable denial of inspection by the Building Official is a violation of this section and may be grounds for revocation of a License and penalties under section 19.12.

(c) If required by the Building Official, a representative of the Owner, Property Manager or Resident Manager, who is at least 18 years of age, must be present during an inspection.

(d) Re-inspection Fee. A re-inspection may be charged to verify that violations have been repaired or corrected. The fee shall be $25 per unit for each re-inspection of noted violations in a dwelling unit and $50 for noted violations on the exterior Premises. Failure to pay a re-inspection fee shall be considered a violation of this article and subject to penalties in section 19.12.

(e) Certificate of Occupancy. Failure to comply with the terms of this section after receipt of written notice of violation from the Building Official setting out the violation and time period to cure the violation shall result in revocation of any certificate of occupancy previously issued and any License issued under this section.

(f) Reinstatement. Any Person requesting a reinstatement or re-issuance of the Certificate of Occupancy shall be required to apply for and receive a new License issued under this section as a condition precedent to the re-issuance or reinstatement of the Certificate of Occupancy.

**19.09 Appeals**

The Owner or Property Manager of property regulated by this Ordinance may appeal any decision or order of the Building Official related to the enforcement of this section to the Board of Adjustments, under the same procedures set forth in Part III-C, Section 43.05 of the Anna Code.

**19.10 License Standards**

(a) Continued compliance with the regulations and standards in this section must be maintained in order to obtain a License or to obtain a License renewal.

(b) It is unlawful for any Person to permit or allow more than one Family to reside in any single Dwelling Unit. A Landlord shall keep records identifying all Tenants in each unit and head of each household. Records shall be available for review by the Building Official during regular working hours upon receipt of reasonable notice.

(c) All city building, electrical, mechanical, plumbing, health, zoning and other applicable ordinances, including the property maintenance code, shall be complied with at all times.

(d) The Owner, Landlord, and/or Property Manager shall require that an apartment lease contract be executed between the Apartment Complex and the Tenant and/or Tenants who will occupy a Dwelling Unit. The lease shall contain a provision which allows the Owner, Landlord and Property Manager to open and allow access to the Dwelling Unit for inspections conducted under this section. If the Apartment Complex's standard lease form does not contain the provision stated in this section, the Owner and/or Property Manager shall require the Tenant to sign, as a condition for occupancy of a Dwelling Unit, a document provided by the City which will allow the Owner, Landlord, or Property Manager to open and allow access to a Dwelling Unit to the Building Inspector for the purpose of inspections conducted as provided for under this section.

**19.11 Retaliatory Eviction**

(a) A Landlord may not retaliate against a Tenant by increasing rent or cutting off utilities, or evict the Tenant from the Premises because:

(1) the Tenant has made a good faith complaint to the Building Official about conditions of the premises, Apartment Complex, or Dwelling Unit that might not be in compliance with other ordinances or which conditions materially affect the health and the safety of the Tenant or the Tenant's property, and the condition was not deliberately or intentionally caused by the Tenant;

(2) the tenant makes a general complaint to the Landlord about a violation of his or her rights under this section; or,

(3) the Tenant files a complaint with the Building Official against the Landlord under this section.

(b) Notwithstanding a claim of retaliation under this section, a Landlord may still evict a Tenant if the Landlord would have a right to evict the Tenant under the Rental Agreement and state law and:

(1) the Tenant's rent obligations are overdue;

(2) the Tenant or his or her agent, invitee, or visitor deliberately or intentionally caused any violation(s) of this section; or

(3) the Tenant is damaging property, disturbing the peace, or using the Dwelling Unit for illegal purposes.

**19.12 Penalty**

Any Person, firm or corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a penalty of fine not to exceed the sum of $2,000 for each offense, and each day such violation exists or continues, it shall constitute a separate offense.

**19.13 Injunctive Relief**

In addition to and cumulative of all penalties, the City has the right to see injunctive relief to remedy any and all violations of this section.

*(Ord. No. 462-2009, adopted 9/8/2009)*

**Section 20. Confined Space Safety Requirements**

**20.01 Applicability.**

This section applies to all private-sector employers and other persons that perform any work for or on behalf of the City within the City's corporate limits, its extraterritorial jurisdiction, or in other areas owned by or in the possession of the City (such employees and persons to be referenced herein after in this section as "Covered Person").

**20.02 Requirements.**

A Covered Person shall not allow any employee or subcontractor—or other person under contract with or otherwise under the control of the Covered Person—to access or enter or attempt to access or enter or otherwise occupy any confined space unless and until such employer or person has submitted to the City's Public Works Director a written Statement of Compliance executed by a duly authorized representative of the Covered Person in a form approved by the City Attorney that: (1) confirms that the Covered Person has adopted a safety program relating to "confined spaces" and "permit-required confined spaces" as said terms are defined under 29 CFR §1910.146(b), as amended; (2) confirms that such program is in full compliance with 29 CFR §1910.146, as amended, and all other applicable OSHA standards and regulations and other federal or state law; (3) confirms that the Covered Person will ensure that the program is strictly adhered to at all times; (4) waives any and all liability against the City; and (5) indemnifies and holds the City harmless of and from any damages or injuries that may be caused by the Covered Person in connection with its performance of any work, operations or activities related to a

confined space.

**20.03 Costs.**

A covered Person shall meet all of the requirements of this section at its own cost and shall not charge the City for such costs nor include any such costs in any contract or work performed for or on behalf of the City.

*(Ord. No. 488-2010, adopted 3/09/2010)*

## Article 9 Reserved

## Article 10 BUSINESS REGULATIONS

### Section 1. Garage and Yard Sale Regulations

**1.01 Definitions**

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*Calendar Year* means that period of time from January 1 through December 31 of any year.

*Chief Building* Official means the official appointed by the administration or City Council of the City of Anna, Texas, and charged with the responsibility of enforcing this section of this Code.

*Dwelling* means any building, or portion thereof, designed or used exclusively for residential occupancy or which is occupied, controlled or used by any Person as defined in this section.

*Garage Sale* means any sale of goods, wares and merchandise in or on any Dwelling or private residential premises or in or on any commercial premises other than one zoned therefore and for which a current valid commercial store license has been issued by the state.

*Person* means any Person, individually, or any group of Persons collectively or any association organized for benevolent, charitable, religious or cultural purposes not for business or profit.

**1.02 Signs**

(a) Locations

(1) Temporary Garage Sale directional signs located off the premises being advertised may not be located in street medians, obstruct vision of traffic or pedestrians. Signs may be utilized only from Friday at 6:00 a.m. until the following Monday at 6:00 a.m. The signs must be removed prior to 6:00 a.m. Mondays.

(2) All signs or notices posted in regard to any Garage Sale under the provisions of this section shall be so located as not to constitute an impairment to or obstruction of traffic anywhere in the City.

(Ord. No. 491-2010, adopted 3/23/2010)

(b) Prohibited locations

(1) Signs or notices under this section of the Code shall in no event be affixed to or located upon any public property, right-of-way or easement, utility pole, sidewalk, or other public way.

(2) Signs or notices under this section of the Code shall be posted only for that period of time allowed and shall not be larger in area than two feet by three feet.

*(Ord. No. 491-2010, adopted 3/23/2010)*

**1.03 Number Per Year**

No more than four garage sales per Calendar Year shall be allowed for any one premise or to any Person per Calendar Year as those terms are defined in this section.

*(Ord. No. 491-2010, adopted 3/23/2010)*

**1.04 Duration**

No Garage Sale shall extend for any period of time exceeding two consecutive weekends or in any event for any period in excess of 10 calendar days.

**1.05 Penalties**

Any violation of any of the terms of this section of the Code, whether herein denominated as unlawful or not, shall be deemed a misdemeanor. Any Person convicted of such violation shall be fined in an amount not to exceed $2,000 for each incidence of violation, unless otherwise specifically set forth in this Code. Each day of the continuance of such violation shall be considered a separate offense and be punished separately.

*(Ord. No. 327-2007, adopted 5/22/2007)*

### Section 2. Policy on Requests for the Donation of Public Funds in Support of Not-For-Profit Organizations

**2.01 Purpose**

When appropriate and in the best interests of the citizenry, the City may provide financial assistance to not-for-profit organizations that provide assistance to its citizens. Whenever funding a not-for-profit organization, the City of Anna will:

(a) encourage the not-for-profit organization to provide services that meet specific needs of Anna residents;

(b) provide only "last resort" capital or operating budget support to the not-for-profit organizations;

(c) supplement (not supplant) funding from other sources available to the not-for-profit organization;

(d) provide limited funds to encourage the not-for-profit organization to seek alternative resources of funds, donated materials and volunteer labor; and

(e) require accountability through reporting of services provided.

**2.02 Procedures**

(a) Requests for the donation of public funds to not-for-profit organizations must be submitted to the Anna City Manager’s Office on or before May I, of each year for consideration in the operating budget for the following fiscal year;

(b) An emergency request may be submitted at anytime provided:

(1) the request was not reasonably foreseeable on or before May 1, budget-process deadline; or

(2) the essential function of the requesting not-for-profit organization would be irreparably harmed if delayed to the next budget process cycle.

(c) Organizations requesting the donation of public funds from the City are required to complete the City's Request Form, a copy of which is to be kept in the office of the City Secretary.

(d) Each not-for-profit organization's application for funds will be screened by the City Manager's Office to ensure the guidelines and criteria in this section are met.

(e) Presentations of qualified applicant non-emergency requests will be made at a City Council meeting appropriate to the operating budget process, to include a Public Hearing.

(f) Not-for-profit organizations whose requests do not meet the guidelines and criteria of this policy will be so notified and if appropriate, invited to resubmit the request for the next budget cycle.

(g) City Council donations to not-for-profit organizations will be based on the benefit to the public and the priorities of community outcomes.

**2.03 Eligibility Criteria**

At a minimum, a not-for-profit organization will meet the following qualifying criteria to receive public funds:

(a) the organization must be a non-profit, tax exempt 501(c)(3) corporation, in good standing will the state of Texas, and must have an active Board of Directors in compliance will IRS section 501(c)(3);

(b) the organization will have been operating successfully for at least two years prior to the application deadline;

(c) the organization will have sufficient funding support to meet ongoing operating costs and obligations;

(d) the organization is not currently receiving other funding from the City of Anna;

(e) if previously funded by the City of Anna, the organization must have successfully fulfilled all prior contractual obligations, or explain reasons for non-compliance;

(f) services and programs are need-based, nondiscriminatory, and provided to the citizens of the City of Anna;

(g) services and programs are provided through means that are more cost effective than the City government could provide;

(h) services and programs supplement or extend the services and programs by the City.

(i) services and programs are able to fill gaps that may exist between those of the City and the needs of the community; and

(j) the organization submits verifiable documentation of not-for-profit status and submits detailed financial documents for review by City staff, including, but not limited to:

(1) federal tax identification number;

(2) copy of 501(c)(3) nonprofit status certification letter; and

(3) certificate of liability insurance.

**2.04 Restrictions on the Use of Public Funds**

(a) No more than 25% of any public funds requested may be used for salaries; however, under exceptional circumstances, exceptions may be approved by the City Council.

(b) The City will not fund the following:

(1) social functions, parties, receptions, fund-raising benefits, refreshments, or beverages;

(2) licensing fees of any kind;

(3) underwriting, investments, stocks, bonds, or any financial obligation; or

(4) interest and/or depreciation on loans, fines, penalties, or costs of litigation.

*(Ord. No. 277-2006, passed 7/25/2006)*

**2.05 Funding Formula**

A maximum of $0.50 per capita shall be budgeted each fiscal year to provide financial support to qualified not-for-profit organizations. The population base for the calculation will be the population estimate made by the City as of January 1 of the year in which the funding is budgeted. For example, the population estimate for January 1, 2006 would be used for the FY 2007 budget.

*(Ord. No. 293-2006, passed 10/26/2006)*

**2.06 Accountability**

Not-for-profit organizations requesting donations of public funds will adhere to general accounting principles as set by law. Continued compliance with these standards is a criterion for possible future donations. These standards include, but are not limited to:

(a) submission of a current list of the organization's Board of Directors, officers, and staff.

(b) submission of the organizations bylaws and mission statement.

(c) submission of the most recent audited financial statement and/or detailed budget as part of the application process.

(d) submission of end-of-year financial report to the City after the donation is granted.

**2.07 Request for Public Funds Form Available at City Offices**

Copies of the Request for Public Funds Form is available upon request during regular business hours at the Anna city offices.

*(Ord. No. 277-2006, passed 7/25/2006)*

**Section 3. Reserved**

**Section 4. Sexually Oriented Businesses**

Ordinances regulating sexually oriented businesses are available upon request at the office of the City Secretary.

## Section 5. Solicitation Regulations

### 5.01 Definitions

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*City* means the City of Anna, Texas.

*Charitable Entities* means entities furthering philanthropic, religious or other nonprofit objectives, including for the benefit of poor, needy, sick, refugee or disabled persons; the benefit of any church or religious society, sect, group or order; the benefit of a patriotic or veterans' association or organization; and, the benefit of any fraternal, social or civil organization, or the benefit of any educational institution. Charitable Entities shall not be construed to include entities or individuals furthering the direct benefit of the individual engaging in the Solicitation. Charitable Entities shall not be construed to include the entities furthering any political group or political organization which is subject to financial disclosure under state or federal law.

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

*Parkway* means the area between the edge of the designated Street and the adjacent owner's property line and including any public easement.

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

*Sidewalk* means any surface provided for the exclusive use of pedestrians.

*Solicitation* means:

(a) conduct within the City's corporate limits whereby a Solicitor attempts to engage in or engages in the following activities:

  (1) either orally or in writing, asks for a ride, employment, property, financial aid, money, or any article representing monetary value, for any purpose;

  (2) whether orally or in writing, peddles, sells or offers to sell goods, services, publications, or subscriptions;

  (3) whether orally or in writing, takes orders for any goods or services for future delivery;

  (4) distributes without remuneration goods, services, publications, or subscriptions; or

  (5) requests signatures on a petition or canvasses for opinions for a survey.

  (6) delivery of handbills or circulars door-to-door for the Solicitation of money, products, services or other items of pecuniary value. An offer of membership in any organization is expressly excluded from the meaning of "Solicitation."

*Solicitor* means any individual, firm, company, partnership, corporation, association, trust, society, Religious Organization, league, or other legal entity (including any trustee, receiver, assignee, agent, or similar representative) attempting to engage in or engaging in any act of Solicitation as that term is defined in this section of the Code.

*Street* means the right-of-way for a Street and the portion of the Street that is paved, designated, or used for vehicular traffic, and all areas dedicated to public use for public Street purposes, which include Parkways, alleys, Sidewalks, drainage ditches and utility easements.

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

### 5.02 Permit Required

(a) Within the corporate limits of the City, it shall be unlawful for any person to engage in Solicitation under this section without having first obtained a permit therefore from the City.

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

(c) Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this section, and such permit shall indicate the hours when Solicitation within the City is permitted in accordance with the provisions of this section.

(d) It shall be unlawful for any Solicitor to represent in connection with any Solicitation that the issuance of a permit, certificate of registration or identification card by the City constitutes an endorsement thereof.

(e) It shall be unlawful for a Solicitor to engage in Solicitation for a purpose other than that set out in the application upon which a permit was issued.

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

(g) Solicitation shall be deemed to have occurred when attempted or completed, regardless of whether the Solicitor receives any contribution or makes any sale.

### 5.03 Permit Application

Every applicant for a permit shall unless otherwise excepted apply for a permit from the City Permit Officer. Each application required by this section shall be in writing, under oath, notarized and shall set out the following:

(a) the full legal name of the applicant;

(b) the full address of the applicant's permanent residence and any current temporary address;

(c) the applicant's home and business telephone numbers;

(d) whether the person represents a partnership, corporation or association, and:

  (1) the business address and telephone number of the applicant;

  (2) if a partnership, the names of all partners and the principal business address and telephone number of each partner;

  (3) if a corporation, the person applying shall state whether it is organized under the laws of Texas or is

a foreign corporation, and must show the mailing address, business location, telephone number, name of the individual in charge of the principle office of such corporation, and the names and addresses of all officers and directors or trustees of said corporation, and, if a foreign corporation, the place of incorporation; and

(4) If an association, the application shall show the association's principal business address and telephone number, if any, and shall show names and principal business or residence addresses and telephone numbers of all members of the association unless they exceed 10 in number, in which case the application shall so state and the person applying may alternatively list the names and principal business or residence addresses and telephone numbers of the officers and directors or trustees of the association. If the association is part of a multistate organization or association, the mailing address and business locations of its local office, or if it has none, its principle place of business.

(5) name and address of each person intended to engage in Solicitation under the permit;

(e) the full legal names, mailing address and telephone numbers of all individuals who will be in supervision, charge or control of any Solicitation;

(f) the kind, type and character of goods or services proposed to be offered for sale, including the name brand, manufacturer and distributor of goods and commodities and the name, publisher and distributor of all books, magazines or periodicals to be offered for sale;

(g) names, mailing addresses and telephone numbers of five persons as references, excluding relatives and persons living with the applicant;

(h) how often the applicant intends to solicit during the term of the permit;

(i) the time period within which the Solicitation is to be made, giving the date of the beginning of Solicitation and its projected conclusion;

(j) a description of the methods and means by which the Solicitation is to be attempted or accomplished;

(k) the names of any cities and counties where the applicant has worked or been employed within the previous six months;

(l) whether the applicant, or any Solicitor listed in the application, has ever been convicted of a felony or a misdemeanor involving moral turpitude or violence against another person;

(m) the applicant's state driver's license number or a state-approved identification card number of applicant and each Solicitor; and

(n) the social security number of applicant and each Solicitor.

**5.04 Permit Attachments**

In addition to any other requirements for permit application, there shall be attached to each application for a permit, the following:

(a) two recent photographic likenesses of the applicant's face, and any Solicitor soliciting under said permit, which photographs shall not exceed one inch square in size;

(b) a certificate or letter from the president, vice-president, general manager, sales manager, assistant sales manager or district or area manager of the company for which the applicant works, sells or solicits stating that the applicant is an employee and/or agent of such company;

(c) a reference to a recognized financial rating publication, which reference shall show the page on which the company's or firm's financial standing can be found; or a letter or a certificate from an association or organization which has as its purpose the protection of citizens of the United States against illegal or unsavory business practices stating that the firm or company is a member in good standing of such association or organization;

(d) in the event that the applicant is an individual who does not intend to engage in Solicitation for any firm or company, letters of recommendation from two citizens of the applicant's permanent City or county of residence; and

(e) a photocopy of an applicant's unexpired driver's license, state-approved identification card, military identification card or passport.

**5.05 Issuance of Permit**

A permit applied for under this section shall be issued by the City Permit Officer within 10 days after the application is completed and filed, unless it is determined that the applicant has provided false or incomplete information on its application, failed to pay the application fee, or is in violation of any requirement or prohibition of this section. A permit requested under this section shall be issued for the length of time requested, not to exceed six months. An expired permit may be renewed under the same terms and conditions as the original application and subject to the same fees and application submission requirements.

**5.06 Form of Permit**

Each permit shall be printed in black except that the following shall be printed prominently thereon in red: "The issuance of the permit is not an endorsement by the City of Anna or any of its officers or employees." Each permit shall bear a permit number, which is the same as the file containing the application filed by the applicant.

**5.07 Permit to be Displayed**

It shall be unlawful for any person to engage in Solicitation without carrying the identification card and displaying the permit required, by this section his or her person, in plain view, while engaged in Solicitation.

**5.08 Exhibiting Permit**

Every Solicitor shall identify himself or herself as a salesperson upon approaching a citizen in a public place or at a private dwelling and explain the purpose of the Solicitation.

**5.09 Solicitors Identification Cards**

The City Police Department shall issue identification cards for each Solicitor approved for a permit. Each identification card issued by the Police Department shall bear the name of the applicant, the application number, the name of the Solicitor, or agent, and the expiration date of the permit, and it shall have printed prominently thereon in red: "This

identification card is not an endorsement of the Solicitation by the City of Anna or any of its officers or employees. It is the duty of every person to verify all information given to you by this Solicitor." The applicant shall provide, by a separate list, the names and addresses of all agents or employees for whom identification cards are to be issued.

**5.10 Application Fee**

The application shall be accompanied by a $35 fee for the original Solicitor or applicant, plus a $35 fee for each additional Solicitor, for the investigation and administration of the provisions of this section. This fee shall be paid to the City Permit Officer. In addition, the applicant shall pay a $15 fee for each identification card issued.

*Cross reference: Part IV - Schedule of Fees*

**5.11 Investigation of Applicant**

It shall be the duty of the City's Chief of Police, or his/her authorized designee, to secure a background check through any lawful means on each applicant, and all other persons listed on the application before issuance of a permit, which investigation may include but is not necessarily limited to personal interviews with named individuals, warrant and criminal background checks, verification of references and information contained within the application.

**5.12 Responsibility for acts of Solicitors**

The recipient of a permit or named applicant shall be responsible for the acts of his/her authorized representatives or Solicitors listed in permit application in connection with Solicitation activities. In this regard, the recipient of the permit shall actively supervise all persons listed in the permit application, which supervision shall include but not be limited to remaining within the corporate City limits during all Solicitation activity and responding promptly (within 10 minutes) to calls by City representatives relative to the Solicitation activity which may include responding to an on-site complaint from a citizen.

**5.13 Revocation of Permit**

(a) If, after the permit required by this section has been issued, the City Police Chief, or his/her authorized designee, finds that the permit was obtained by false representation in the application, or the permit has been reproduced or transferred or assigned to another person or the applicant has led someone to believe the permit is an endorsement of the applicant's product or service by the City, or in the event of fraud or misrepresentation by the permit holder, or in the event of conviction of the permit holder of a felony or a misdemeanor involving moral turpitude, or in the event the permit holder has failed to furnish the items required by this section, such permit may be revoked by the Police Department or its authorized designee.

(b) If a police officer, Code enforcement officer or building official has probable cause to believe that a Solicitor has engaged in prohibited conduct as set forth in this section, the officer may revoke the permit of the permit holder.

(c) If more than one complaint of misconduct by a Solicitor or group of Solicitors working for the same company is received, the permit may be immediately revoked by the City without any refund of permitting fees paid.

**5.14 Appeal from Denial or Revocation of Permit**

Should a permit be denied or revoked, the applicant or permit holder may appeal that action to the City Council of the City by submitting a letter to the City Secretary within 10 days to complain of that action. A hearing of the denial or revocation will then be scheduled for the next regular meeting of the City Council, or a special meeting of the City Council, to be held within 15 days of the appeal. The City Council shall render a decision on the appeal within one day of the date of the hearing. The hearing shall be an administrative hearing. Adherence to formal rules of evidence shall not be required. The decision of the City Council shall be final and binding. No new application for a permit will be considered for six months after denial or revocation, unless said denial or revocation is without prejudice or is conditional and the conditions have been satisfied as determined by the City Police Chief.

**5.15 Exemptions**

(a) The following persons engaged in the activities set out in paragraphs (1) and (2) below shall first register with the City Permit Officer by filling out a form to be promulgated by the City in accordance with the provisions of this section and by furnishing proof of actual engagement in such activity in the City, and the City Permit Officer shall issue to such person a registration certificate exempting him or her from the terms and conditions of this section and from paying fees therefore, namely:

(1) public utility companies or others operating under a franchise granted by the City; and

(2) insurance salespeople, real estate salespeople and others professionals licensed by the state and acting in their professional capacities.

(b) The following individuals and entities need not apply for a permit, register with the City Permit Officer or the Police Department, nor pay permitting fees:

(1) persons under the age of 13 participating in Solicitation related to children's activities, including but not limited to Girl Scouts, Boy Scouts, and Big Brothers and Sisters, to the extent that they are actively supervised by a parent, guardian or other adult person, at least 18 years of age, who is responsible for the well-being and appropriate behavior of the child;

(2) Religious Organizations, Charitable Entities and political organizations and their representatives distributing information, handbills or pamphlets only for the purpose of communicating issues of general interest to the public (a donation received as a result of the distribution of information, handbills or pamphlets does not affect this exemption);

(3) ordinary commercial travelers who sell or exhibit for sale goods, wares or merchandise to persons selling and dealing in the same types of sale goods, wares or merchandise;

(4) persons making regular delivery of newspapers or magazines or other items which have been subscribed to by the persons receiving them or by occupants of the premises to which they are delivered; and

(5) any federal, state or local governmental unit, official or authority performing governmental functions or

those functions that such unit is legally required to perform.

**5.16 Bond**

Each person engaging in Solicitation activities requiring cash deposits or taking orders on delivery purchases (COD) or who requires a contract of agreement to finance the sale of any goods, services or merchandise for future delivery, or for services to be performed in the future, shall furnish to the City a cash bond in the amount of $5,000, naming the applicant for the permit as principal. The bond shall be in full force and effect for one year from the date of issuance of the permit, unless otherwise extended by demand of the City due to the revocation of the permit, or an anticipated delivery date beyond 12 months, in order to protect the citizens of the City from potential losses associated with such Solicitations.

**5.17 Affirmative Defense**

It shall be an affirmative defense to prosecution under this section if the person is occupying the public right-of-way for the purpose of selling newspapers or publications or other printed material which deal with the dissemination of information or opinion; however, this defense is not available if said act occurred upon the paved surface or shoulder of any public Street, highway or road.

**5.18 Private No Soliciting Displays**

(a) Every person upon going onto any premises shall first examine the premises to determine if there exists upon or near the main entrance to the premises any written notice prohibiting Solicitation or distribution of pamphlets, handbills, political handbills or religious handbills distribution. If such notice exists, the person shall immediately depart from the premises without distributing, placing, or depositing any type of unwelcome handbill or pamphlet or disturbing the occupant, unless the visit is the result of a request made by the occupant.

(b) No person shall go upon any premises and ring the doorbell, or rap or knock upon the door or create any sound in a manner calculated to attract the attention of the occupant of the premises, for the purpose of securing an audience with the occupant and engaging in or attempting to engage in Solicitation, if a "No Solicitation" card, as described in this section, is exhibited in a conspicuous place upon or near the main entrance to the premises, unless the visit is the result of a request made by the occupant.

(c) No person, other than the owner or occupant of the premises, shall remove, deface, or render illegible, a "No Solicitation" card placed upon the property of the occupant.

(d) Any person who has gained entrance to a premises, or audience with the occupant, whether invited or not, shall immediately depart from the premises without disturbing the occupant further when requested to leave by the occupant.

**5.19 Prohibited Location, Activities and Conduct**

(a) It shall be unlawful for any person to engage in Solicitation in the following places within the corporate limits of the City:

(1) on any public Street, Parkway or alley or Traffic Island;

(2) within 25 feet of the following facilities: ATM machines; entrances and exits of banks, credit unions, or other financial institutions; exterior public pay telephones; self-service car washes; self-service fuel pumps; or public transportation stops;

(3) any residence, business or other premises which shall exhibit in a conspicuous place upon or near the main entrance to the premises a legible sign or placard containing the words "NO SOLICITORS" or "NO SOLICITATION"; or

(4) any place that results in blockage, obstruction or hindrance of the free flow of traffic in the lawful use of the Street or free passage of pedestrians in the lawful use of the Sidewalk.

(b) No Solicitation shall be directed to occupants of motor vehicles moving or stopped in traffic on a public Street, Parkway or alley.

(c) It shall be unlawful for a person engaged in Solicitation that:

(1) misrepresents the purpose of the Solicitation;

(2) misrepresents the affiliation of those engaged in the Solicitation;

(3) continues efforts to solicit from an individual once that individual informs the Solicitor that he does not wish to give anything to or buy anything from that Solicitor;

(4) represents the issuance of any permit or registration under this section as an endorsement or recommendation by the City of the Solicitation; or

(5) results in the Solicitor remaining on property after the property owner, or the property owner's designee, representative or agent, has instructed the Solicitor to leave.

(d) No Solicitor, or person working on his or her behalf, shall shout, make an outcry, blow a horn or whistle, or use any sound device, including any sound amplifying system, upon any of the Streets, avenues, alleys, parks or other public places of the City, or otherwise be in violation of any regulations the City has adopted regarding Excessive Noise.

(e) No person shall engage in Solicitation through the delivery of handbills or circulars by placing said handbills or circulars on motor vehicles, public utility posts, or other locations such that the same constitutes littering under Chapter 365 of the Texas Health and Safety Code. It is presumed that the person or business whose address or telephone number is listed in the notice, poster, paper, or device, or who is otherwise named, described, or identified in the notice, poster, paper, or device, is the person or business who committed the violation, either personally or through an agent or employee.

(f) Notwithstanding any other provision in this section, it shall be unlawful for any person to allow children 13 years of age or younger to engage in Solicitation, unless such children are actively supervised by a parent, guardian or other adult person at least 18 years of age. For purposes of this section, "actively supervised" means that the adult person shall be within 100 feet of all children 13 years of age or younger for whom the adult person is responsible at all times when the children are engaged in Solicitation.

**5.20 Prohibited Times**

No person shall engage in Solicitation at a private residence in the City after sunset on any day until 9:00 a.m., Monday through Saturday, unless the transaction is the result of a request made to such person by the occupant of such private residence. "Sunset" means the time of day identified by the National Weather Service as the time for sunset for that day for the City. There shall be no Solicitations on Sunday, New Years Day, Fourth of July, Memorial Day (observed), Labor Day (observed), Thanksgiving, or Christmas Day.

**5.21 Consumer's Right to Cancel**

(a) A Solicitor shall provide to the Consumer in writing the right to cancel a Solicitation transaction made in person or by telephone in which the consideration exceeds $25, until midnight of the third business day after the day on which the Consumer signs an agreement or offer to purchase in a Solicitation transaction. For purposes of a telephone Solicitation, date of transaction means the day that the Consumer receives the goods, services, or realty purchased in a Solicitation transaction.

(b) If the Consumer chooses to cancel the Solicitation transaction, notification by mail shall be considered given at the time mailed as evidenced by the postmark; notification by telegram shall be considered given at the time filed for transmission; and notification by any other writing shall be considered given at the time delivered to the merchant's designated place of business.

(c) It shall be unlawful for a Solicitor to refuse to allow the customer to cancel the Solicitation transaction.

(d) Cancellations authorized, and the procedure and notice requirements set forth in Chapter 39 of the Texas Business and Commerce Code, as it may be amended, are applicable to this section, for transactions applicable thereunder.

**5.22 Penalty**

Any person violating any of the provisions or terms of this section shall be deemed guilty of a Class C misdemeanor and, upon conviction, be punished by a fine not to exceed the sum of $500 for each offense, and each and every day such violation shall continue be deemed to constitute a separate offense, unless otherwise specifically set forth in this Code. Allegation and evidence of a culpable mental state is not required for proof of any offense defined by this section.

**5.23 Public Disclosure**

All applications, whether or not a permit has been issued, shall be a public record and shall be available for inspection by members of the public during regular business hours, and copies may be obtained at cost.

*(Ord. No. 283-2006, adopted 8/22/2006)*

**Section 6. Itinerant Vendors**

**6.01 Definitions**

The following words and phrases, when used in this section, shall have the meanings ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary. Otherwise, all terminology not defined as described above shall be understood by its ordinary meaning.

*City* means the City of Anna, Texas.

*Itinerant Vendor* means any person, whether principal or agent, who engages in a temporary or transient business, either in one locality or in traveling from place to place, selling goods, wares, merchandise, and/or services and who, for the purpose of carrying on such business, hires, leases or occupies land for the exhibition and sale of such goods, wares, merchandise, and/or services.

*Itinerant Vending* means performing the acts of an Itinerant Vendor.

*Parkway* means the area between the edge of the designated Street and the adjacent owner's property line and including any public easement.

*Sidewalk* means any surface provided for the exclusive use of pedestrians.

Street means the right-of-way for a Street and the portion of the Street that is paved, designated, or used for vehicular traffic, and all areas dedicated to public use for public Street purposes, which include Parkways, alleys, Sidewalks, drainage ditches and utility easements.

**6.02 Permit Required and Other Regulations**

(a) Within the corporate limits of the City, it shall be unlawful for any person to engage in Itinerant Vending without having first applied for and obtained a permit therefore from the City as required under this section.

(b) Each person engaged in Itinerant Vending must possess an unexpired permit issued under the provisions of this section.

(c) Each such permit shall be personal to the applicant and shall not be reproduced nor assigned nor transferred to any other person. Any such attempted transfer or reproduction is a violation of this section and shall render the permit void.

(d) Each permit shall expire as of the date noted thereon, which date shall be in accordance with the provisions of this section, and such permit shall indicate the hours during which the holder of the permit may engage in Itinerant Vending.

(e) Each permit shall describe any category of goods, wares, services, and merchandise that are allowed to be sold by the holder of the permit.

(f) Unless expressly stated to the contrary in a validly issued permit, it shall be unlawful:

(1) for any Itinerant Vendor to sell any type of goods, wares, services, or merchandise that is not listed in the application upon which a permit was issued;

(2) for any Itinerant Vending to occur on any part of a Street, Parkway, or Sidewalk or at any location not set forth in a validly approved application for permit;

(3) for any Itinerant Vending to occur at any time other than between the hours of 7 a.m. to 7 p.m., Monday – Saturday;

(4) for any Itinerant Vending to include the sale of any food or beverages, except for food and/or beverages that are pre-packaged and do not require a food-handlers permit or other food-related and/or beverage-related permit to be issued by a department of health or other agency or organization with lawful regulatory jurisdiction over food and/or beverages sold within the City's corporate limits;

(5) for there to be any accumulation of trash or debris on any site upon which Itinerant Vending is conducted;

(6) to engage in Itinerant Vending within 300 feet of any location that is the subject of a previously issued, unexpired Itinerant Vending permit; or

(7) for an Itinerant Vendor to violate any other provision of this section or other applicable City ordinances or regulations.

**6.03 Permit Application**

Every applicant for a permit shall unless otherwise excepted apply for a permit from the City Permit Officer. Each application required by this section shall be in writing, and shall set out the following:

(a) the full legal name of the applicant;

(b) the full address of the applicant's permanent residence and any current temporary address;

(c) the applicant's home and business telephone numbers;

(d) the kind, type and character of goods, wares, merchandise and/or services proposed to be offered for sale;

(e) a general description of the manner in which the applicant intends to engage in Itinerant Vending during the term of the permit;

(f) the time period over which the Itinerant Vending is to endure, including the starting date and the ending date; and

(g) the submission date of the application.

**6.04 Permit Attachments and Fee**

In addition to any other requirements for a permit application, there shall be submitted with each application for a permit, the following:

(a) a letter of permission from the owner of the real property that is the subject of the permit;

(b) a Plot Plan identifying said real property and showing its location in relation to any abutting or adjacent Streets, Parkways, or Sidewalks; and

(c) an application fee of $25, unless the applicant has obtained an Itinerant Vendor permit from the City within the same calendar year as the application submission date, in which case the fee is waived; provided, however, that there shall be no such waiver if—at any time during the twelve-month period preceding the application submission date—the applicant has been convicted of a violation of this section or has had an Itinerant Vending permit revoked by the City.

**6.05 Issuance and Nature of Permit**

(a) A permit applied for under this section shall be issued or denied by the City Permit Officer within 10 days after the application is completed and submitted, unless it is determined that the applicant has provided false or incomplete information on its application, failed to pay the application fee, is in violation of—or whose proposed Itinerant Vending would be in violation of—any requirement or prohibition of this section.

(b) A permit requested under this section shall be issued for the length of time requested, not to exceed one year. An expired permit may be renewed under the provisions and requirements that exist at the time that renewal is sought.

(c) A permit issued under this section is not a property right and may be revoked by the City Permit Officer.

(d) A permit issued under this section will be revoked if the owner of the real property that is the subject of the permit withdraws consent or if the holder of the permit is in violation of any provision of this section.

*(Ord. No. 582-2012, adopted 4/24/2012)*

**Article 11 Reserved**

**Article 12 Reserved**

**Article 13 Reserved**

**Article 14 Reserved**

## Article 15 EMERGENCY MANAGEMENT

**Section 1. Emergency Management Plan**

The City of Anna has adopted the Collin County Emergency Management Plan which services all Anna residents within the City limits of Anna.

*(Ord. No. 94-07, adopted 7/12/1994)*

**Section 2. Water Conservation and Drought Contingency Plan**

Ordinances regulating water conservation and the City's drought contingency plan are available upon request at the office of the City Secretary.

**Section 3. Flood Prevention and Protection**

***See Flood Damage Prevention, Article 24***

**Article 16 Reserved**

**Article 17 Reserved**

**Article 18 Reserved**

**Article 19 Reserved**

**Article 20 Reserved**

## Article 21 FIRE PREVENTION AND PROTECTION

**Section 1. Adoption of the 2006 Edition of the International Fire Code**

(a) The City of Anna has adopted the 2006 Edition of the International Fire Code including Appendix Chapters B, C, D, E, F and G. Copies of the Code and the amendments thereto, as referenced herein, are on file in the office of the City Secretary for permanent record and inspection.

The mayor, or his authorized representative, is hereby authorized and directed to enforce all provisions of the International Fire Code, as adopted herein and as amended.

(b) The City Council hereby adopts the North Central Texas Council of Governments Recommended Amendments. Copies of the amendments in their entirety as referenced herein, are on file in the office of the City Secretary for permanent record and inspection.

*(Ord. No. 373-2008, adopted 4/8/2008)*

*Cross Reference, Part II, Article 8, Section 10*

**Section 2. Creation of the Position of the Arson Investigator**

**2.01 Designating the Office of Arson Investigator**

The position of Arson Investigator shall be an employee position with the City of Anna subject to the City's personnel policies and shall at all times be a peace officer certified by the Commission on Law Enforcement Officer Standards and Education as set out in Chapter 1701 of the Occupations Code.

**2.02 Investigation Duties of the Arson Investigator**

(a) The Arson Investigator shall investigate the cause, origin and circumstances of every fire occurring within the City of Anna, Texas 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 24 hours, not including Sunday, of the occurrence of such fire. The Arson Investigator 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 section.

(b) When it is the opinion of the Arson Investigator that further investigation is necessary, the following actions will be taken:

(1) 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 in writing;

(2) and if he shall be of the opinion that there is evidence sufficient to charge any person with 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 charged with such offense or either of them, shall furnish to the 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.

*(Ord. No. 355-2007, adopted 12/11/2007)*

**Section 3. Outdoor Burning Prohibited**

**3.01 Prohibited Generally**

No person shall kindle or maintain any bonfire, rubbish fire or outdoor burn or authorize any such fire to be kindled or maintained upon any premises within the City limits.

**3.02 Exceptions**

(a) If a violent weather condition destroys buildings, trees or other vegetation, and clean-up is of the essence, the Fire Marshal may designate one or more community burn locations where persons may transport storm debris for burning. Burning of storm debris by occupants in residentially zoned areas may be allowed if it can be demonstrated to the Fire Marshal that burning would substantially expedite the clean-up, and if no practical alternative exists.

(b) Outdoor burning shall be authorized for training fire-lighting personnel when such burning is otherwise authorized by State law and permitted by a local air pollution control agency or the TCEQ or its successor.

(c) Outdoor fires are allowed for cooking, provided such fire is built and maintained in a pit that fully contains the fire, or a fireproof container such as a barbeque pit or chimenea, made of brick, stone, metal or other fireproof material in such a manner as to prevent said fire from escaping. Such outdoor fires for non-commercial food preparation do not require a burn permit. This subsection does not permit or authorize the burning of waste or other matters not being prepared for consumption.

**3.03 Compliance with Other Laws**

Any burning carried out under the exceptions herein must conform to 2003 Edition of the International Fire Code when not in conflict with this section. State law and to TCEQ or successor Rules and shall not be conducted on any:

(a) Ozone Action Day designated by the TCEQ or its successor, or

(b) day in which there is in effect an order issued by Collin County that prohibits outdoor burning in unincorporated areas of Collin County due to drought conditions.

**3.04 Responsibility Born by Individual Conducting Burn**

The authority to conduct outdoor burning under this regulation does not exempt or excuse any person responsible from the consequences, damages, or injuries resulting from the burning and does not exempt or excuse anyone from complying with all other applicable laws or sections, regulations, and orders of governmental entities having jurisdiction, even though the burning is otherwise conducted in compliance with this regulation. Any burn that results in nuisance conditions must be extinguished regardless of whether the burn has been permitted under this section or other law.

**3.05 Application Required**

Unless otherwise expressly provided in this section, any burning intended to be carried out under the exceptions herein may not occur until an application has been submitted and a permit has been issued and signed by the Fire Marshal. The permit fee shall be $50 per allowable burn. The application must be on a form provided by the Fire Marshal and must describe with specificity the nature and extent of the intended burn, along with the location of the burn and the name of the individual(s) seeking authorization to conduct the burn. A permit must describe with specificity the nature and extent of the burn permitted, along with the location and the name of the individual(s) authorized to conduct the burn. A permit becomes void after the expiration of 30 days after the permit is issued and signed by the Fire Marshal, regardless of whether the burn has been initiated or completed. Once a permit has become

void, a new permit and payment of a permit fee shall be required to conduct or continue a burn.

**3.06 Penalty**

(a) Any person, firm, corporation or business violates this section, including without limitation conducting an outdoor burn or maintaining a bonfire fire or rubbish fire within the City's corporate limits without a property issued permit. An offense of this section is a Class C misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

(b) Where, in a specific case, this section and sections of the 2003 Edition of the International Fire Code-as amended by this section-specify requirements that conflict with the requirements under other applicable sections of City of Anna ordinances or adopted Codes, the most restrictive sections shall govern. Otherwise, all parts of any other ordinance in conflict with the provisions of this section are to the extent of such conflict hereby repealed.

*(Ord. No. 329-2007, adopted 6/12/2007)*

**Section 4. Regulation of Fireworks**

**4.01 Definitions**

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

Firework means any composition or device designed to produce a visible or audible effect by combustion, explosion, deflagration or detonation, and which meets the definition of "consumer (Explosive's 1.4G)", "theatrical and novelty (Explosives 1.4S)" or "display (Explosive's 1.3G)" Fireworks as set forth in the U.S. Department of Transportation's (DOT) Hazardous Materials Regulation, Title 49, Code of Federal Regulations (CFR), Parts 171-180. Specifically excluded from this definition and not regulated by this section are:

(a) toy caps for use in toy pistols, toy canes, or toy guns, and novelties and trick noisemakers manufactured in accordance with DOT regulations, 49 CFR 173.100 (p), and packed and shipped according to said regulations;

(b) model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;

(c) propelling or expelling charges consisting of a mixture of sulfur, charcoal, saltpeter when not designed or intended for the purpose of producing audible effects;

(d) the sale or use of, in emergency situations, pyrotechnic signaling devices or distress signals for marine, aviation or highway use;

(e) the use of a fuse or a railway torpedo by a railroad;

(f) the sale of blank cartridges for use in a radio, television, film or theater production; a signal or ceremonial purpose in an athletic event; or an industrial use;

(g) the use of a pyrotechnic device by a military organization;

(h) ammunition for rifle, pistol, or shotgun;

(i) ammunition with inert projectile or blank ammunition;

(j) ammunition not exceeding 50 caliber for rifle or pistol;

(k) cartridges or 8 gauge for shotgun shells; and

(l) smokeless powder and other gunpowder-like propellants used in firearms which produce negligible smoke when fired.

Person means a natural or legal Person, parent, guardian, association, firm, company, whether incorporated or unincorporated.

**4.02 Public Nuisance**

The presence of any Fireworks in violation of this section is hereby declared to be a public nuisance. In accordance with departmental policies and applicable federal and state law, the Fire Marshal, Chief of Police, and Code Enforcement Officers are hereby empowered to direct the seizure and safe destruction of any Fireworks found within the jurisdiction of the City. Any member of the police department-or any fire department that provides fire prevention services to all or a part of the territory described in subsection 4.05 of this section is empowered to stop and detain the illegal transportation of any Fireworks, and to close any building where Fireworks are illegally stored, in order that said Fireworks may be seized and destroyed. Notwithstanding any penal provision afforded in this section, the City Attorney is authorized to file suit on behalf of the City for such injunctive relief as may be necessary to prevent the violation of any provision of this section, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to such seizure and destruction.

**4.03 Prohibitions and Restrictions**

Except as otherwise specifically provided in this section, it is unlawful for any Person to manufacture, assemble, store, transport, keep, sell, offer for sale, possess with intention to sell, use, discharge, ignite, detonate, fire, or otherwise set in action any Fireworks of any type within the territory described in subsection 4.05 of this section, or to permit any such violation of this section. No Person shall ignite or explode any inflammable or explosive device or chemical composition or substance, including but not limited to railroad torpedoes, blasting powder, dynamite, dynamite caps, flashlight powder, or signal lights, except in the use of such devices, compositions, or substances for industrial, commercial, professional, scientific, or other practical purposes.

**4.04 Permit**

(a) The Fire Marshal is authorized to issue permits for public or private displays of Fireworks, to be conducted under supervision of the police department or Fire Marshal, at such times and places and under such restrictions as in the opinion of the Fire Marshal shall afford adequate safeguards for life and property. After such privileges have been granted, sales, possession, use, and distribution of Fireworks for such displays shall be lawful for that purpose only. No permit granted hereunder shall be transferable.

(b) Before any permit for a pyrotechnic display shall be issued, the Person, firm, or corporation making application

therefore shall furnish proof of financial responsibility to satisfy claims for damages to property or personal injuries arising out of any act or omission on the part of such Person, in such amount, character, and form as the Fire Marshal determines to be necessary for the protection of the public.

**4.05 Territorial Application**

This section shall be applicable within the corporate limits of the City and further within the area immediately contiguous and adjacent to the City limits, extending for a total distance of 5,000 feet; provided, however, that this section shall not apply within any portion of said 5,000 foot area which is contained within the territory of any other municipal corporation.

**4.06 Civil liability, Persons Not Relieved**

Nothing in this section shall relieve any Person from any civil liability in connection with the manufacture, storage, transportation, possession, sale, or use of Fireworks or other device, composition, or substance referenced in this section.

**4.07 Penalties**

Any Person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $2,000, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 269-2006, adopted 6/13/2006)*

**Section 5. Wooden Truss Warning Signs**

**5.01 Definitions**

For the purpose of this section, the following terms, phrases and words shall have the following meaning:

*Warning Sign* means a twelve (12) inches by twelve (12) inches sign of the design shown on Exhibit 1 attached hereto.

*Property Owner* or *Owner* means any person, firm or corporation having a legal ownership interest in the property.

*Wood Truss* means a wooden roof or floor structure consisting of a group of triangles arranged in a single plan in such a manner that loads applied at the points of the intersections of the structural members will cause only direct stresses, tension or compression within the structural members. Wooden Truss may include, but are not limited to, the following constructions: bowstring, warren, sawtooth, k truss, scissors, cambered fink, hammerbeam, pratt, fink, and inverted queen posts and floor truss.

*Multi-Family Residential Structure* means any residential structure having three (3) or more units that have restricted access through locked doors and have a common corridor for access to living units.

**5.02 Required signage**

The Owner of any commercial, industrial, or Multi-Family Residential Structure which has a Wood Truss assembly shall be required to mount Warning Signs meeting the following minimum requirements:

(a) Size and Construction. Each Warning Sign required to be installed in accordance with this section shall be of the size and construction as defined in Section 5.01.

(b) Mounting Locations and Height From Finished Grade. A Warning Sign shall be mounted directly to the right of each series of entrance doors (front, rear and sides of the building or structure) at a height of five (5) feet up from finished grade. Additional Warning Signs may be required by the Fire Chief when the distance between entrance doors or the length of a series of entrance doors would require additional Warning Signs for visibility by Fire Department personnel. If the structure has a wall-mounted safe that holds building keys for firefighters and EMTs to retrieve in emergencies such as a "Knox Box", a Warning Sign shall be located directly above any such wall-mounted safe.

(c) Property Owner Responsibility. It shall be the responsibility of each Property Owner to purchase, mount, maintain and prevent obstruction of any Warning Signs required to be mounted on a building or structure.

**Exhibit 1**

**Size: 12" x 12"**
**Material: .080 Aluminum Engineer Grade**
**Silk Screen: Reflective Red and White Colors**
**Maltese Cross: 8" x 8" Reflective Red**
**Predrilled Holes**
**Letter 2" High**
**1.5" Radius Corners**

*(Ord. No. 541-2011, adopted 3/8/11)*

**Article 22 Reserved**

**Article 23 Reserved**

## Article 24 FLOOD DAMAGE PREVENTION

### Section 1. Flood Damage Prevention

#### 1.01 Findings of Fact

(a) The flood hazard areas of the City of Anna are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety, and general welfare.

(b) 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, Flood-proofed, or otherwise protected from flood damage.

#### 1.02 Statement of Purpose

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

(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.

#### 1.03 Methods of Reducing Flood Losses

In order to accomplish its purpose, this article 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.

#### 1.04 Definitions

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

*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.

*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.

*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.

*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.

*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 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.

*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.

*Base Flood* means the flood having a 1percent chance of being equaled or exceeded in any given year.

*Base Flood Elevation (BFE)* is 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.

*Basement* means any area of the building having its floor subgrade (below ground level) on all sides.

*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.

*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.

*Development* means any man-made change in improved and unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations or storage of equipment or materials.

*Elevated Building* means, for insurance purposes, a non-basement building, which has its lowest elevated floor, raised above ground level by foundation walls, sheer walls, posts, piers, pilings, or columns.

*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."

*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 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.

*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).

*Flood or Flooding* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(a) the overflow of inland or tidal waters;

(b) the unusual and rapid accumulation or runoff of surface waters from any source.

*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.

*Flood Hazard Boundary Map (FHBM)* means an official map of a community, issued by the Administrator, where the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zones A, M, and/or E.

*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.

*Flood Insurance Study (FIS)* see *Flood Elevation Study*.

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

*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.

*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.

*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.

*Flood-Proof, Flood-Proofed or 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.

*Floodway* see *Regulatory Floodway*

*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.

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

*Historic Structure* means any structure that is:

(a) 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;

(b) 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;

(c) 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

(d) individually listed on a local inventory or 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.

*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.

*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.

*Lowest Floor* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of 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 designed requirement of Section 60.3 of the National Flood Insurance Program regulations.

*Manufactured Home* means a structure transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term “manufactured home” does not include a “recreational vehicle”.

*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.

*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.

*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.

*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.

*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.

*Riverine* means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*Special Flood Hazard Area* see *Area of Special Flood Hazard*

*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.

*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..

*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.

*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.”

*Variance* means a grant of relief by a community from the terms of a floodplain management regulation. (For full requirements see Section 60.6 of the National Flood Insurance Program regulations.)

*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 Section 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

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

**1.05 Lands to Which This Section Applies**

This article shall apply to all areas of special flood hazard within the jurisdiction of the City of Anna.

**1.06 Basis for Establishing Areas of Special Flood Hazard**

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 Collin County, Texas AND Incorporated Areas,” dated June 2, 2009, with accompanying Flood Insurance Rate Maps dated June 2, 2009, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

**1.07 Establishment of Development Permit**

A Floodplain Development Permit shall be required to ensure conformance with the provisions of this article.

**1.08 Compliance**

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

**1.09 Abrogation and Greater Restrictions**

This article is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this article and another ordinance, regulation, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

**1.10 Interpretation**

In the interpretation and application of this article, all provisions shall be:

(a) considered as minimum requirements;

(b) liberally construed in favor of the governing body; and

(c) deemed neither to limit nor repeal any other powers granted under State statutes.

**1.11 Warning and Disclaimer or Liability**

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural causes. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

**1.12 Designation of the Floodplain Administrator**

The City Manager or his or her designee is hereby appointed the Floodplain Administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.

**1.13 Duties and Responsibilities of the Floodplain Administrator**

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 applications to determine whether to ensure that the proposed building site project, 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 Section 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.

(f) Notify, in riverine situations, adjacent communities and the State Coordinating Agency which is the Texas Water Development board (TWDB) and also the Texas Commission for Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.

(g) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

(h) When base flood elevation data has not been provided in accordance with subsection 1.06 of this article, the Floodplain Administrator shall obtain, review, and reasonably utilize any base flood elevation data and floodway data available from a Federal, State, or other source, in order to administer the provisions of subsections 1.16 - 1.18.

**1.14 Permit Procedures**

(a) 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:

(1) elevation (in relation to mean sea level), of the lowest floor (including basement) of all new and substantially improved structures;

(2) elevation in relation to mean sea level to which any nonresidential structure shall be Flood-Proofed;

(3) a certificate from a registered professional engineer or architect that the nonresidential Flood-Proofed structure shall meet the Flood-Proofing criteria of this subsection 1.17(b) of this article;

(4) description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development; and

(5) maintain a record of all such information in accordance with subsection 1.13(a) of this article.

(b) Approval or denial of a Floodplain Development Permit by the Floodplain Administrator shall be based on all of the provisions of this article and the following relevant factors:

(1) the danger to life and property due to flooding or erosion damage;

(2) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;

(3) the danger that materials may be swept onto other lands to the injury of others;

(4) the compatibility of the proposed use with existing and anticipated development;

(5) the safety of access to the property in times of flood for ordinary and emergency vehicles;

(6) 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;

(7) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;

(8) the necessity to the facility of a waterfront location, where applicable;

(9) the availability of alternative locations, not subject to flooding or erosion damage, for the proposed use; and

(10) the relationship of the proposed use to the comprehensive plan for that area.

**1.15 Variance Procedures**

(a) The Appeal Board as established by the community, shall hear and render judgment on requests for variances from the requirements of this article.

(b) 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 article.

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

(d) 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.

(e) 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 article.

(f) 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 subsection 1.14(b) have been fully considered. As the lot size increases beyond the 1/2 acre size, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this article, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article (subsection 1.02).

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

(i) 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.

(j) Prerequisites for granting variances shall include the following:

(1) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(2) 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, ordinances, or regulations.

(3) Any application to which 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.

(k) 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:

(1) the criteria outlined in subsection 1.14(b)(1)-(10) are met, and

(2) 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.

**1.16 Provisions for Flood Hazard Reduction**

(a) GENERAL STANDARDS

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

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

(2) all new construction or substantial improvements shall be constructed by methods and practices that minimize flood damage;

(3) all new construction or substantial improvements shall be constructed with materials resistant to flood damage;

(4) all new construction or substantial improvements shall be constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

(5) all new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

(6) 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

(7) on-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

**1.17 Specific Standards**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsection 1.06, subsection 1.13(h), or subsection 1.18(c), the following provisions are required:

(a) Residential construction - new construction and substantial improvement of any residential structure shall have the lowest floor (including basement), elevated to two feet above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the Floodplain Administrator that the standard of this subsection as proposed in subsection 1.14(a)(1) is satisfied.

(b) Nonresidential Construction - new construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to one foot above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relation to mean sea level) to which such structures are Flood-Proofed shall be maintained by the Floodplain Administrator.

(c) Enclosures – new construction and substantial improvements, with fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:

(1) a minimum of two openings on separate walls having a total net area of not less than 1 square inch for every square foot of enclosed area subject to flooding shall be provided.

(2) the bottom of all openings shall be no higher than 1 foot above grade.

(3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(d) Manufactured Homes -

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

(2) Require that manufactured homes that are placed or substantially improved within Zones A1-30, AH, and AE on the community's FIRM on sites:

(i) outside of a manufactured home park or subdivision,

(ii) in a new manufactured home park or subdivision,

(iii) in an expansion to an existing manufactured home park or subdivision, or

(iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred "substantial damage" as a result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to two feet above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(3) Require that manufactured homes be placed or substantially improved on sites in an existing manufactured home park or subdivision with Zones A1-30, AH and AE on the community's FIRM that are not subject to the provisions of paragraph (d) of this subsection be elevated so that either:

i. the lowest floor of the manufactured home is at one foot above the base flood elevation, or

(ii) the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

**1.18 Standards for Subdivision Proposals**

(a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with subsections 1.01-1.03 of this article.

(b) All proposals for the development of subdivisions, including the placement of manufactured home parks and subdivisions, shall meet Floodplain Development Permit requirements of subsections 1.07; 1.14; and the provisions of Sections 1.17-1.18.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development, including manufactured home parks and subdivisions,

which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to subsections 1.06 or subsection 1.13(h) of this article.

(d) Base flood elevation data shall be generated by a detailed engineering study for all Zone A areas, within 100 feet of the contour lines of Zone A areas, and other Riverines not mapped by FEMA, as indicated on the community's FIRM.

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

(f) 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.

**Section 2. Appeals Board.**

The City Council shall serve as the Appeals Board references in subsection 1.15 of this article.

*(Ord. No. 437-2009, adopted 3/24/2009)*

**Article 25 Reserved**

**Article 26 Reserved**

**Article 27 Reserved**

**Article 28 Reserved**

## Article 29 GENERAL OFFENSES

**Section 1. Noise Regulations**

**1.01 Loud Noises Prohibited Generally**

It shall be unlawful for any person, firm, or corporation to make, continue, or cause to be made or continued any loud, unnecessary, or unusual noise or any noise which interferes with the normal enjoyment of life or property or disturbs , endangers, or interferes with the public peace and comfort within the limits of the City.

**1.02 Loud Noises Enumerated**

The following enumerated acts are declared to be loud, disturbing, and unnecessary noises in violation of this section, but such enumeration shall not be deemed to be exclusive.

(a) The playing of any radio, television, musical instrument, phonograph, stereo, or other machine or device for the producing, reproduction, or amplification of sound in such manner as to create a noise which could be reasonably considered to disturb a person of ordinary disposition residing in the vicinity or at any time with louder volume than is necessary for convenient hearing for persons who are in the room, vehicle, chamber, or location in which such machine or device is operated and who are voluntary listeners thereto is hereby prohibited. The operation of such set, instrument, phonograph, stereo, machine or devise in such a manner as to be plainly audible at a distance of 50 feet from the building, structure, vehicle, or location in which it is situated shall be prima facie evidence of a violation of this section.

(b) The playing or operating or permitting to be played or operated any phonograph, radio, or loud-speaking or noise-making device or attachment on any premises under the ownership, management, or control of such person, when such premises are being used as a place of business to which the public is generally is invited, in such a manner or in such volume as to be reasonably calculated to disturb the peace or to be unreasonably offensive to the public or to the occupants of other premises in the vicinity.

(c) The sounding of any horn or signal device on any automobile 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.

(d) The use of any automobile, motorcycle, or other vehicle so out of repair or operated in such manner as to create loud and unnecessary spinning or squealing of tires, grating, grinding, rattling, or other noise.

(e) The parking, storage or repairing of any motor vehicle or any motorized equipment between the hours of 10:00 p.m. and 7:00 a.m. with any motor(s) left in operation for an extended period.

(f) The use of sound amplifying equipment for commercial advertising purposes.

(g) The operation of any pile driver, steam shovel, pneumatic hammer, derrick, electric hoist or other appliances or equipment, the use of which is attended by a loud or unusual noise, between the hours of 10:00 p.m. and 7:00 a.m.

(h) The operation of any motor driven or power operated lawnmower or to engage in any construction or demolition work within the City between the hours of 10:00 p.m. and 6:00 a.m.

(i) The harboring or keeping on his premises or in or about his premises or premises under his control any animal or bird which by causing frequent or long continued noise or any dog which by loud or unusual barking or howling shall disturb the comfort or repose of any person in the vicinity.

(j) The operation of any construction equipment the use of which is attended by loud or unusual noise between the hours of 9:00 p.m. and 7:00 a.m. on weekdays and Saturdays and any time on Sundays.

**1.03 Exemption in Case of an Emergency**

This section shall not apply to emergencies of any governmental subdivision or any public utility. In cases of a public emergency, the public works director may issue permits, at no charge, to individuals and companies for demolition are construction work or operations of equipment if it is the best interest of the public.

**1.04 Penalties**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $500, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 87-2003, adopted 7/29/2003)*

**Section 2. Curfew for Minors**

**2.01 Findings**

(a) The City Council of the City of Anna, Texas finds that:

(1) there has been an increase in juvenile violence, vandalism, illegal drug activity, and other crime by persons under the age of 17 in the City of Anna ("the City");

(2) persons under the age of 17 are particularly susceptible, by their lack of maturity and experience, to participate in unlawful activities and to be victims of older perpetrators of crime;

(3) the City has an obligation to provide for the protection of minors from each other and from other persons, for the enforcement of parental control over and responsibility for children, for the protection of the general public, and for the reduction of the incidence of juvenile criminal activities; and

(4) a curfew for those under the age of 17 will be in the interest of the public health, safety, and general welfare and will help to attain the foregoing objectives and to diminish the undesirable impact of such conduct on the citizens of the City.

**2.02 Definitions**

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*Curfew Hours* mean:

(a) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. of the following day; and

(b) 12:01 a.m. until 6:00 a.m. on any Saturday (immediately following midnight on Friday) or Sunday (immediately following midnight on Saturday).

(c) Notwithstanding (1) and (2), above, Curfew Hours shall be from 12:01 a.m. until 6:00 a.m. every day from the first day of the school summer break to the last day of the same summer break, according to the Anna ISD school calendar.

*Emergency* means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, or automobile accident, or any situation requiring immediate action to prevent Serious Bodily Injury or loss of life.

*Establishment* means any privately-owned place of business operated for a profit to which the public is invited, including but not limited to any place of amusement or entertainment.

Guardian means:

(d) a person who, under court order, is the Guardian of a Minor; or

(e) a public or private agency with whom a Minor has been placed by a court.

*Interstate Transportation* means transportation between states of the United States or between a state of the United States and a foreign country, to which any travel through the City is merely incidental.

*Intrastate Transportation* means transportation between locations within the state, to which any travel through the City is merely incidental.

*Minor* means any person under 17 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing, or conducting any Establishment. The term includes the members or partners of an association or partnership and the officers of a corporation.

*Parent* means a person who is:

(f) a natural parent, adoptive parent, or step-parent of another person; or

(g) at least 18 years of age and authorized by a parent or Guardian to have the care and custody of a Minor.

*Public Place* means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

*Remain* means to:

(h) linger or stay; or

(i) fail to leave premises when requested to do so by a police officer or the owner, Operator, or other person in control of the premises.

*Serious Bodily Injury* means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

**2.03 Offenses**

(a) A Minor commits an offense if he Remains in any Public Place or on the premises of any Establishment within the City during Curfew Hours.

(b) A Parent or Guardian of a Minor commits an offense by knowingly permitting, or by insufficient control, allowing, the Minor to Remain in any Public Place or on the premises of any Establishment within the City during Curfew Hours.

(c) The owner, Operator, or any employee of an Establishment commits an offense by knowingly allowing a Minor to Remain upon the premises of the Establishment during Curfew Hours.

**2.04 Defenses**

(a) It is a defense to prosecution under subsection 2.03(c) that the Minor was:

(1) accompanied by the Minor's Parent or Guardian or an adult 21 years of age or older approved by the Parent or Guardian;

(2) on an Emergency errand or an errand at the direction of the Minor's Parent or Guardian, without any detour or stop:

(3) in a motor vehicle involved in interstate travel;

(4) engaged in a lawful employment activity or labor organization meeting, or going to or returning home from an employment activity, or labor organization meeting without any detour or stop;

(5) involved in an Emergency;

(6) on the sidewalk abutting the Minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the Minor's presence;

(7) attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the Minor, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City, a civic organization, or another similar entity that takes responsibility for the Minor;

(8) exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;

(9) married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code; or

(10) in an aircraft or motor vehicle involved in intrastate or Interstate Transportation, or was awaiting transportation by such means;

(b) It is a defense to prosecution under subsection 2.03(c) that the owner, Operator, or employee of an Establishment promptly notified the City of Anna Police Department that a Minor was present on the premises of the Establishment during Curfew Hours and refused to leave.

**2.05 Enforcement**

(a) Before taking any enforcement action against a Minor under this section, a police officer shall ask the apparent offender's age and reason for being in the Public Place. The officer shall not issue a citation or make an arrest under this section unless the officer reasonably believes that an offense has occurred and that, based on any response and other circumstances, no defense in subsection 2.04 is present.

(b) Upon finding that a Minor is in violation of subsection 2.03 an officer may:

(1) order the Minor to go directly and promptly to his home, after issuing either a written warning or a citation; or

(2) release the Minor to a Parent, legal Guardian or other responsible adult under circumstances deemed appropriate by the officer, after issuing a written warning or a citation.

(c) When a Minor is released to a Parent, legal Guardian or other responsible adult, the adult shall be informed of the specific violation, the nature and purpose of the law, and the consequences of future violations. The peace officer has the discretion to issue either a written warning or a citation to the Minor's Parent, legal Guardian, or a responsible adult into whose care the Minor was placed.

**2.06 Penalties**

(a) A person who violates a provision of this section is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense is a Class C misdemeanor, and upon conviction, is punishable by a fine not to exceed $500, unless otherwise specifically set forth in this Code.

(b) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a Minor who violates this section and shall refer the Minor to juvenile court.

(c) In assessing punishment, the municipal court judge may consider a community service or a teen court program.

**2.07 Review**

(a) In accordance with Local Government Code Section 370.002 as amended, before the third anniversary of the date of adoption of this section and every third year thereafter, the City Council shall:

(1) review this section or order's effects on the community and on problems this section was intended to remedy;

(2) conduct public hearings on the need to continue this section; and

(3) abolish, continue, or modify this section.

(b) Failure to act in accordance with subsections 2.07(a)(1)-(3) shall cause the order to expire.

*(Ord. No. 208-2005, adopted 5/24/2005)*

**Section 3. Sex Offender Regulations**

Ordinances pertaining to the regulation of sex offenders are available upon request at the office of the City Secretary.

**Section 4. Discharge of Firearms**

For the purposes of this section, the following terms, words and the derivations thereof shall have the meanings given herein.

*Firearm* shall mean any pistol, handgun, rifle or shotgun that fires a projectile through the combustion of gunpowder or propellant.

*Other Weapon* shall mean any paintball gun, BB gun, pellet gun, air rifle or air pistol, bow, compound bow, crossbow, crossbow pistol or any other device capable of firing an arrow or bolt.

*Indoor Archery Range* shall mean a room, place or enclosure equipped with targets for practice with a bow, compound bow, crossbow, crossbow pistol or any other device capable of firing an arrow or bolt.

*Indoor Firing Range* shall mean a room, place or enclosure equipped with targets for practice with any BB gun, pellet gun, air rifle or pistol, gun, pistol or Firearm of any description.

*Permit Holder* shall mean the person to which a permit was issued or his guest(s). A person shall be assumed to be a guest if the Permit Holder is present at the permitted activity and consents to the person's presence or the person has written permission to participate in the permitted activity from

the person to which the permit was issued and a copy of the permit. Written permission must include the name, date of birth and home address of the person being given permission.

**4.01 Public Nuisance**

The discharge of any Firearms or Other Weapons in violation of this section is hereby declared to be a public nuisance. Notwithstanding any penal provision afforded in this section, the City Attorney is authorized to file suit on behalf of the City for such injunctive relief as may be necessary to prevent the violation of any provision of this section, but it shall not be necessary to obtain any such injunctive relief as a prerequisite to enforcement of a penal provision under this section or other law.

**4.02 Exemptions**

This section does not apply to:

(a) the discharge of Firearms or Other Weapons in an area annexed by the municipality after September 1, 1981, if the Firearm or Other Weapon is:

(1) a shotgun, air rifle or pistol, BB gun, or bow and arrow discharged:

(i) on a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on another property; and

(ii) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(2) a center fire or rim fire rifle or pistol of any caliber discharged:

i. on a tract of land of 10 acres or more and more than 150 feet from a residence or occupied building located on another property; and

(ii) in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; or

(b) a peace officer lawfully acting within the scope of the peace officer's duties;

(c) an authorized agent, officer, employee or representative of a state or federal agency lawfully acting with the scope of that person's duties;

(d) the discharge of Firearms or Other Weapons by a person acting in self defense or defense of another, provided that the person's action is otherwise justified by law;

(e) the discharge of any Firearm that does not release a projectile and is used solely as part of a demonstration at a special event, function or activity, or for signal or ceremonial purposes in athletic events, or by a military organization;

(f) the use of toy bows and soft rubber tipped arrows;

(g) the discharge of Firearms or Other Weapons by a person acting in defense of pets, livestock, crops or other property, provided that the person's action is otherwise justified by law;

(h) the otherwise legal discharge of Firearms or Other Weapons within an Indoor Firing Range or Indoor Archery Range; or

(i) discharging a Firearm in the City's extraterritorial jurisdiction, provided that the projectile is discharged in a manner not reasonably expected to cause the projectile to cross into the City's corporate limits.

**4.03 Prohibitions and Restrictions**

With regard to the discharge of Firearms within the City's corporate limits, and subject to the exemptions under subsection 4.02 of this section, it shall be unlawful to discharge:

(a) a Firearm without first obtaining a permit from the City Manager;

(b) any Other Weapon;

(1) when discharged on a tract of land that is less than two acres in size; or

(2) when discharged less than 150 feet from a residence or occupied building located on another property; or

(c) a shotgun of any gauge:

(1) when discharged on a tract of land that is less than 10 acres in size; or

(2) when discharged less than 150 feet from a residence or occupied building located on another property; or

(d) a handgun, center fire or rim fire rifle or pistol of any caliber:

(1) when discharged on a tract of land that is less than 50 acres in size; or

(2) when discharged less than 300 feet from a residence or occupied building located on another property; or

(e) any Firearm or Other Weapon unless discharged in a manner not reasonably expected to cause a projectile to cross the boundary of the tract upon which the discharge is made;

(f) any Firearm or Other Weapon at a location that is not within an area zoned AG - Agricultural; or

(g) any Firearm or Other Weapon discharged in the City's extraterritorial jurisdiction if the discharge results in the projectile crossing into the City's corporate limits on any property within the City's corporate limits where said discharge is unlawful under this section or other law.

**4.04 Permit**

(a) Permits may only be issued to allow the discharge of Firearms within an area zoned AG - Agricultural.

(b) A permit issued under this section does not provide a Permit Holder any sort of exemption from the provisions of this section and a Permit Holder must at all times comply with all provisions of this section.

**4.05 Application for Permit**

A person wishing to obtain a permit required by this section must file with the City Manager's office an application containing the following information:

(a) the name and address of the applicant;

(b) a description of the property, including property line dimensions and total acreage of the property where the Firearm will be discharged;

(c) the name of the owner(s) of the property where the Firearm will be discharged;

(d) the type of the Firearm to be used; i.e. rifle, shotgun, or handgun, and whether it is a rim fire or center fire caliber;

(e) if the applicant is not the property owner(s), a document evidencing that the applicant has the express permission of the owner to use the land to discharge Firearms; and

(f) the purpose of discharging the Firearm, and the time period requested, not to exceed one year.

**4.06 Police Review of Application**

Upon receipt of an application for a permit required by this section, the City Manager shall immediately forward same to the police department. The police department shall have seven working days in which to review the application to determine whether:

(a) discharging a Firearm in the location requested would detrimentally affect public safety, health, or welfare;

(b) the applicant has been convicted of a felony or falsified the application; and

(c) the location meets the minimum area and distance requirements of this section.

**4.07 Action on Application**

Upon receiving the report from the police department, the City Manager shall, based upon the police department's findings, act upon the application by either issuing or denying the permit, within 10 business days. If the City Manager issues the permit, the permit shall designate a period that appropriately allows for the applicant's purpose in requesting the permit, but not to exceed one year.

**4.08 Possession, Display of Permit**

Approved permits issued under this section shall be carried on the Permit Holder's person at any time a Firearm is discharged or carried on the location that the permit describes, and shall be shown upon the request of any peace officer. Failure to show a permit is a violation of this section.

**4.09 Revocation of Permits**

(a) A permit issued under this section may be seized by any police officer, and may be revoked by the chief of police, if:

(1) the Permit Holder fails to show the permit to a police officer upon request;

(2) complaints from an adjacent property owner or a law enforcement officer are received that allege unsafe weapon handling or discharge;

(3) the Permit Holder discharges a Firearm of a type not specifically indicated on the permit;

(4) the landowner requests revocation of all or specific permits issued for his land;

(5) violations of any of the provisions, restrictions or prohibitions of this section occur.

(b) If the chief of police revokes a permit issued hereunder, he or she shall send to the Permit Holder, by U.S. certified mail, return-receipt requested, written notice of the revocation, the reason therefore, and the right to appeal.

(c) The chief of police shall send a copy of the written notice of revocation to the City Manager, who shall provide copies of such notice to the City Council.

(d) A Permit Holder who has a permit revoked shall not be issued another permit under this section for a period of 90 days from the date of revocation for the first revocation and for a period of one year for any subsequent revocation, unless the Permit Holder successfully appeals the revocation.

**4.10 Appeals Procedure**

(a) A permit applicant or holder may appeal the denial or revocation of a permit hereunder to the City Council subject to the following requirements:

(1) the appeal must be in writing and filed with the City Manager's office within five business days of the denial or revocation action; and

(2) the appeal must clearly set out the basis of such appeal.

(b) Upon receipt of the appeal, the City Manger shall schedule a public hearing to take place during the next regular City Council meeting occurring after the expiration of 10 business days after receipt of the appeal by the City Manager.

(c) At the hearing, the City Council will hear and evaluate all evidence and testimony regarding the permit denial or revocation submitted by any interested party.

(d) Before the end of the meeting at which the public hearing takes place, the City Council shall formally act to sustain or overrule the appeal and the City Council's decision shall be final.

**4.11 Civil Liability, Persons Not Relieved**

Nothing in this section shall relieve any person from any civil liability in connection with the discharge of Firearms or Other Weapons referenced in this section.

**4.12 Penalties**

A person commits an offense if the person violates any part of this section. An offense of this section is a Class C misdemeanor. Any Person convicted of violating this section shall be fined in an amount not to exceed $2,000 for each incident of violation, unless otherwise specifically set forth in this Code. Each day of the continuance of such violation shall be considered a separate offense and shall be punished separately. The penal provisions imposed under this section shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 291-2006, adopted 10/10/2006)*

**Section 5. Temporary Restriction of Bicycles Along FM 455**

(a) From and after the effective date of this section it shall be unlawful for any person to ride on or operate a bicycle on the following roads or highways within the corporate boundaries of the City of Anna, Texas, to the following extent:

| *Street* | *Extent* |
|---|---|
| Farm to Market Road 455 | Beginning at State Highway 5 (S. Powell Parkway) and continuing in a |

westerly direction to East Fork Creek

(b) The restriction set forth in subsection (b) does not restrict a person from walking, carrying, pulling or pushing a bicycle if the person is in a dismounted position, in full control of the bicycle and no part of the bicycle is in contact with any portion of the road(s) or highway(s) identified in said section.

(c) Any person may submit a written petition addressed to the City Council requesting amendment or repeal of any part of the restriction(s) in subsection (a). The petition must be submitted to the City Secretary. The Council must hold a public hearing and act on said petition within 45 days of the City's receipt of the petition. Failure to hold a public hearing or act on a petition is deemed a rejection of the petition and does not constitute a violation of this section. The petition must:

(1) be in writing;

(2) identify the petitioner by name, address, and telephone number;

(3) describe with particularity all information and evidence supporting the petitioner's request; and identify any person(s) - by name, address and telephone number-who intends to be called by the petitioner or heard by the Council at the ensuing public hearing.

If the petitioner or any other person intends to provide a written report or other written materials at the public hearing, copies of those materials must be submitted with the Petition. The City Secretary shall not accept or file any petition if it is submitted before the expiration of 120 days after the Council has held a public hearing in connection with any petition duly filed under this section. This section does not prevent any Council member from taking any action otherwise available to seek amendment or repeal of this section at any time.

**5.02 Penalties**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined any sum not exceeding $200, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 267-2006, adopted 6/13/2006)*

**Section 6. Prohibited Deposits of Foreign Matter by Vehicles on Public Roadways and Places**

**6.01 Definitions**

For the purposes of this section, when not inconsistent with the context, words used in the present tense include the future tense, words in the plural include the singular, words in the singular include the plural, and the use of any gender shall be applicable to all genders whenever the sense requires. Words not defined in this section shall be given their common and ordinary meaning.

*Litter* has the same meaning as the word "Litter" under Texas Health & Safety Code Section 365-011.

*Vehicle* has the same meaning as the word "Vehicle" under Texas Transportation Code Section 541.201, and does include devices that may not be legally operated on public roadways.

**6.02 Offense**

(a) It is unlawful within the City for any person to drive or move a Vehicle, when doing so results in depositing onto any public street, highway, alley, or other public place or roadway, any mud, dirt, sticky substances, Litter, or foreign matter of any kind.

(b) Neither allegation nor evidence of a culpable mental state is required for the proof of an offense described by this section.

(c) It is an affirmative defense to prosecution under this section that the driver of the Vehicle which deposited the mud, dirt, sticky substances, Litter, or foreign matter of any kind, or any agent of the driver, removed such material in a safe manner from the street, highway, alley, or other public place within thirty (30) minutes of depositing same.

**6.03 Penalty**

An offense of this section is a Class C misdemeanor. Any Person Convicted of violating this section shall be fined in an amount not to exceed $2,000 for each incident of violation, unless otherwise specifically set forth in this Code. Each day of the continuance of such violation shall be considered a separate offense and shall be punished separately, The penal provisions imposed under this section shall not preclude the City from filing suit to enjoin the violation. The City retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 471-2009, adopted 10-13-09)*

**Article 30 Reserved**

**Article 31 Reserved**

**Article 32 Reserved**

**Article 33 HEALTH AND SANITATION**

**Section 1. Smoking**

**1.01 Places where smoking is prohibited**

Smoking shall be prohibited in the following locations:

(a) within all buildings that are owned, leased, controlled or operated by the City of Anna ("City") or any political subdivision of the state;

(b) on any lot or tract owned by the City or any political subdivision of the state, and on which there is a building described in subsection 1.01(a) or on which there is any improvement that is used in connection with a building described in Section 1.01(a), including but not limited to porches, balconies, stairs, and parking lots;

(c) on public rights-of-way that have been temporarily closed for public events including parades, festivals, and other pedestrian oriented activities;

(d) on public rights-of-way and public sidewalks within 15 feet of any door, operable window/vent or other opening to an indoor enclosed area;

(e) within any building, portion of a building, or on any property, where the owner or manager has conspicuously posted a sign clearly stating "No Smoking" at each entrance (such "No Smoking" signs shall have bold lettering of not less than one inch in height and the international "No Smoking" symbol may also be used, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it);

(f) in all public parks and public recreation areas that are owned or operated by the City or any political subdivision of the state, including but not limited to recreation fields, athletic fields and stadiums, stadium seating and bleachers, trails, pools, pavilions, playground and recreation equipment, concession stands, parking lots and restrooms;

(g) in or within 15 feet of swimming pools, playground equipment, and similar outdoor recreation facilities that are owned or operated by a home owners association, or are operated as part of a multiple-unit residential facility;

(h) waiting rooms, hallways, wards, private and semiprivate rooms of physical and mental health facilities, including but not limited to hospitals, clinics, physical therapy facilities, doctors' offices, and dentists' offices;

(i) lobbies, hallways and other common areas in apartment buildings, condominiums, trailer parks, retirement facilities, nursing homes, and other multiple-unit residential facilities;

(j) buses, bus terminals, taxicabs, and other facilities and means of public transit, as well as ticket boarding, and waiting areas of public transit depots;

(k) elevators;

(l) polling places; and

(m) within 15 feet of any door, operable window/vent or other opening to an indoor enclosed area where smoking is prohibited under this section.

**1.02 Places where smoking is not prohibited**

Notwithstanding any other provision of this article to the contrary, the following areas shall not be subject to the smoking restrictions of this article:

(a) private residences, including porch and yard areas;

(b) personal automobiles; and

(c) public rights-of way and public sidewalks located within public rights-of-way, except as prohibited in Sections 1.01(c) and (d).

**1.03 Enforcement.**

(a) Enforcement of this article shall be implemented by issuance of a citation or, at the City's option, by civil action to the extent that a violation constitutes a nuisance. These enforcement measures and remedies shall be cumulative.

(b) Except for locations described in Section 1.01(e) where the prohibition of smoking is voluntary, it is the duty of the owner, manager, operator or person-in-charge of any establishment regulated by this article:

(1) to not provide ashtrays, matches, lighters or other smoking related paraphernalia in regulated premise;

(2) to advise a person who violates this article that smoking is not allowed; and

(3) to request a person remove themselves from the location after that person has been advised that smoking is not allowed and that person willfully continues to smoke and, if said person fails to leave a regulated premises, to immediately notify an appropriate law enforcement authority.

**1.04 Offenses and Penalties.**

(a) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this article.

(b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any premises subject to regulation under this article to fail to comply with this section and subsection 1.03(b) of this article.

(c) Any person who violates any provision of this article shall be guilty of a misdemeanor infraction, punishable by a fine not to exceed $2,000.

(d) Every act in violation shall constitute a separate offense.

(e) Unless otherwise specifically set forth herein allegation and evidence of culpable mental state are not required for the proof of an offense of this article.

**Sections 2-10 Reserved.**

*(Ord. No. 436-2009, adopted 3/24/2009)*

## Article 34 Reserved

## Article 35 FOOD ESTABLISHMENT RULES

**Section 1. Purpose**

The purpose of these rules is to safeguard public health and provide to consumers food that is safe, unadulterated, and honestly presented.

**Section 2. Adoption of Department of State Health Services Texas Food Establishment Rules**

(a) This Article hereby incorporates as if set forth in full herein for all purposes Texas Administrative Code Title 25. Health Services, Part 1. Department of State Health Services, Chapter 229. Food and Drug, Subchapter K. Texas Food Establishments, Sections 229.161 through 229.170, and Sections 229.173 through 229.175, as may be amended by the Texas Department of State Health Services, save and except the amendments set forth below. Copies of the Texas Food Establishment Rules are on file in the office of the Anna City Secretary being marked and designated as the Texas Food Establishment Rules, published by the Texas Board of Health, General Sanitation Division. The City amends the Texas Food Establishment Rules as follows:

(1) Section 229.162 (83) is amended such that the "regulatory authority" referenced therein is the City of Anna, Texas, including its duly authorized agents; and

(2) Section 229.163(c) is amended to add the following subsection:

"13. A sign shall be prominently displayed in view of each rest room lavatory used by food service employees that states: 'Employees must

thoroughly wash hands before returning to work after using the rest room.' "

**Section 3. Penalty**

Any violation of any of the terms of this Article, whether denominated in this Article as unlawful or not, shall be deemed a misdemeanor. Any person convicted of any such violation shall be fined in an amount not to exceed $2,000 for each incidence of violation. Each violation is considered a separate offense and will be punished separately.

*(Ord. No. 420-2008, adopted 12/9/2008)*

## Article 36 Reserved

## Article 37 PUBLIC POOLS AND SPAS RULES

**Section 1. Purpose**

The purpose of these rules is to, among other things, safeguard public safety by requiring safe public pools and spas. These rules are found to be in the interest of good public health, engineering and safety practices.

**Section 2. Adoption of Department of State Health Services Standards for Public Pools and Spas**

(a) The Texas Department of State Health Services Standards for Public Pools and Spas, adopted by the Texas Board of Health in Texas Administrative Code, Title 25 (Health Services), Part 1( Department of State Health Services), Chapter 265 (General Sanitation), Subchapter L (Standards for Public Pools and Spas), (collectively referenced in this Article as the "Texas Department of Health Pool Rules"), which establish regulations for the design, construction, operation, repair and maintenance of all public pools and spas, are hereby adopted, save and except the amendments set forth below. The Texas Department of Health Pools Rules, save and except the amendments set forth below, are made a part of this Article as if fully set forth herein. Copies of the Texas Department of Health Pool Rules are on File in the office of the Anna City Secretary being marked and designated as the Texas Department of Health Pool Rules, published by the Texas Board of Health, General Sanitation Division. Anna amends the Texas Department of Health Pool Rules as follows:

(1) Section 265.182 (112) is amended such that the "regulatory authority" referenced therein is the City of Anna, Texas, including its duly authorized agents.

(2) Section 265.186. (Decks, Entry/Exit, Diving Facilities and Other Deck equipment at Post-10/1/99 and Pre-10/1/99 Pools and Spas) is amended as follows:

(a)(14) Deck(s) shall be sloped to effectively drain to perimeter areas or to deck drains. Drainage shall remove pool and spa splash water, deck cleaning water and rainwater without leaving standing water deeper than one-eighth (1/8) inch. Drains removing all water on deck(s) shall be routed to the storm sewer system or as otherwise approved by current local Plumbing Code, as amended. Water from deck drainage shall not be mixed with pool or spa water.

(3) Section 265.187 (Circulation Systems for Post-10/1/99 and Pre-10/1/99 Pools and Spas) is amended as follows:

(a) Suction outlet covers or grates for post-10/1/99 and pre-10/1/99 pools and spas. Suction outlet covers or grates must be provided for post-10/1/99 and pre 10/1/99 pools and spas in accordance with Section 265.190(c) of this title relating to Suction Outlets and Return Inlets in Post-10/1/99 and Pre-10/1/99 Pools and Spas). If the owner or operator of a post-10/1/99 or pre-10/1/99 pool or spa knows or should have known in the exercise of ordinary care that a suction outlet cover or grate is missing, broken, or loose, the pool or spa must be closed immediately and the pump(s) must be shut off. The pool or spa must remain closed until a proper repair or replacement has been accomplished. Repair must be inspected by the local regulatory authority before the pool or spa is allowed to reopen.

(4) Section 265.188 (Filters) is amended as follows:

(h) Backwashing for post-10/1/99 and pre-10/1/99 pools and spas. All backwash systems shall be discharged to the sanitary sewer system through an approved p-trap unless prior approval for alternate disposal is obtained from the local regulatory authority. See also Section 265.196.

(5) Section 265.190 Suction Outlets and Return Inlets as Post-10/1/99 and Pre-10/1/99 Pools and Spas is amended as follows:

(e) Upgrading suction outlet systems on pre-10/1/99 pools and spas.

(1) In a pre-10/1/99 pool or spa, suction outlets that are four feet deep or less, as measured from the normal water level to the suction outlet, must have for each suction system:

(A) dual hydraulically balanced suction outlets with approved covers as described in subsection (c)(1) or approved grates as described in subsection (c)(4) of this section with a distance between the suction outlet fittings no less than three feet, inside edge of the cover or grate to inside edge of the cover or grate, and no more than 20 feet, and either an AVS or SVRD as described in subsection (d)(3) of this section;

(C) dual hydraulically-balanced, suction outlets with a distance between the suction outlet fittings no less than three feet, inside edge of the cover or grate to the inside edge of the cover or grate, and no more than 20 feet, each with a minimal diagonal measurement of 24 inches and a flow velocity through the open area of the grate that does not exceed 1.5 feet per second.

(3) In a pre-10/1/99 pool or spa, suction outlets that are more than four feet deep, as measured from the normal water level to the

suction outlets, must have, for each suction system;

(A) two or more hydraulically-balanced suction outlets with a distance between the suction outlet fittings no less than three feet, inside edge of the cover or grate to inside edge of the cover or grate, and no more than 20 feet, each with a minimum diagonal measurement of 24 inches and a flow velocity through the open area of the grate that does not exceed 1.5 feet per second.

(6) Section 265.196. Waste Water Disposal at Post-10/1/99 and Pre-10/1/99 Pools and Spas is amended as follows:

(7) (a) Filter backwash disposal for post-10/1/99 and pre-10/1/99 pools and spas. Filter backwash water and pool or spa drainage water from post-10/1/99 and pre-10/1/99 pools and spas shall be discharged or disposed of in accordance with the International Plumbing Code as adopted by the local regulatory authority.

(8) Section 265.199 (Specific Safety Features) is amended as follows:

(c) Depth markers for post-10/1/99 pools. Post-10/1/99 pools shall have markers showing depth and unit of measurement for depth, complying with the following:

(2) Depth and unit markers number and unit markers on decks shall be slip-resistant tile, flush mounted, placed within 24 inches of the water's edge, and positioned to be read while standing on the deck facing the water. Spray paint, painted on and vinyl lettering units of measurements are prohibited.

(A) Three consecutive inspections performed by the local regulatory authority note a deficiency in the vinyl lettering. A deficiency shall include, but is not limited to, a vinyl letter which is damaged, missing or illegible;

(B) If the local regulatory authority reasonably deems that there is a safety hazard, whereby installing the slip-resistant, flush mounted tiles, would abate, correct or prevent the hazard;

(C) Renovations to the pool area, including amenity center, pools(s), spas or pool enclosure exceeding thirty percent (30%) of the square footage of the pool area;

(D) Failure of property owner, or its designee, to obtain an approved Certificate of Occupancy; or

(E) Violation(s) of any provision of this Article.

(f) Signs for post-10/1/99 and pre-10/1/99 pools shall comply with the following sign requirements:

(1)Post-10/1/99 and pre-10/1/99 pools shall comply with the following sign requirements:

(C) For pools where no lifeguard service is required, a warning sign shall be placed in plain view and shall state "WARNING-NO LIFEGUARD ON DUTY" with clearly legible letters at least 4 inches high. In addition, the sign shall also state in letters at least 2 inches high "CHILDREN SHOULD NOT USE POOL WITHOUT ADULT SUPERVISION". The sign shall also state "ADULTS SHOULD NOT SWIM ALONE", "NO GLASS IN POOL AREA", "SWIMMERS MUST SHOWER BEFORE ENTERING POOL/SPA" and "NO ANIMALS IN POOL AREA". The additional signage required in this subsection may be included on the sign described in paragraph (2) of this subsection. The language on the sign may impose stricter adult supervision requirements for children using the pool.

(D) When a required telephone is not readily visible from a post-10/1/99 or pre-10/1/99 pool or spa, directions shall be posted regarding its location as stated in subsection (i) of this section. When the required telephone or electronic means does not have immediate dial tone operation, clear instructions regarding the exact operation shall be legibly provided on a sign and located at the telephone. The local regulatory authority shall approve the wording of all required signs.

(j) Telephones at post-10/1/99 and pre-10/1/99 pools and spas. Post-10/1/99 and pre-10/1/99 pools and spas shall have a telephone or other electronic means approved by the local regulatory authority capable of immediately summoning emergency service readily accessible within 100 feet from the pool or spa water. The telephone or other approved electronic means shall be located at the same address as the pool(s) and spa(s). Any electronic means of summoning emergency service will qualify as a telephone if clear instructions for its use are provided by signage. A telephone that is answered by an on-site office does not meet the requirements of this subsection. A sign in plain view of the pool or spa shall state in letters at least four inches high: "IN CASE OF EMERGENCY CALL 911 (or other appropriate emergency number or action)." A sign shall be placed at the telephone or other approved electronic means of summoning emergency service stating the address of the pool. The following shall also apply to telephones for post 10/1/99 and pre-10/1/99 pools and spas:

(5) Regardless of where the telephone is located or whether the gate(s) or door(s) are locked, a sign must be installed inside

the pool yard or spa yard in plain view of the pool or spa and state in at least four (4) inch high letters: “IN CASE OF EMERGENCY, DIAL 911” (or other appropriate emergency number or action). If the telephone is not readily visible from the pool or spa, the sign inside the pool yard shall include a concise description of the location of the telephone.

(9) Section 265.200 (Pool Yard Enclosures) is amended as follows:

(b) Enclosures for post-10/1/99 or pre-10/1/99 Class C pools and spas and Class D pools at Class C facility that are subject to Health and Safety Code, Chapter 757.

(1) The pool yard or spa yard enclosure for a post-10/1/99 or pre-10/1/99 pool or spa is recommended to have a minimum perpendicular height of at least 72 inches as measured from the ground surface on the outside fence.

(c) Enclosures for all other post-10/1/99 or pre-10/1/99 Class C pools and spas and Class D pools at Class C facilities.

(1)(A) The enclosure is recommended to have a minimum perpendicular height of at least 72 inches as measured from the ground surface on the outside of the fence.

(10) Section 265.201 (Dressing and Sanitary Facilities at Post-10/1/99 and Pre-10/1/99 Pools and Spas is amended as follows:

(f)(3) Shower(s) and lavatory(s) water temperature shall be controlled by anti-scald devices. The water heater and thermostatically-controlled mixing valves shall be inaccessible to users and shall be capable of providing two gallons per minute of water, not to exceed 110 degrees Fahrenheit with a miniumu of 90 degrees Fahrenheit water to each shower head. A shower can be located on the deck of the pool if proper wastewater disposal is provided as approved by the local regulatory authority. Construction of the shower drain shall be in accordance with the local Plumbing Code, as amended, and shall be constructed to minimize the entrance of storm water. The shower need not be enclosed in Class C Pools.

(g) Sanitary facilities serving post-10/1/99 pools or spas in hotels, motels or condominiums. Post-10/1/99 Class C and D pools and spas located in a hotel, motel or condominium complex are not required to have the following facilities

(3) Deleted.

(5) Deleted.

(7) Deleted.

(11) Section 265.203 Operation and Management of Post-10/1/99 and Pre-10/1/99 pool and Spas is amended as follows:

(a) Required operator certification and training for certain types of post-10/1/99 and pre-10/1/99 pools and spas. Post-10/1/99 and pre-10/1/99 Class A or B pools and Class D pools operated in conjunction with a Class A or B pool, as well as post-10/1/99 and pre-10/1/99 Class C or D pools and spas located at Class C facilities, shall be maintained under the supervision and direction of a properly trained and certified operator who is responsible for the sanitation, safety, and proper maintenance of the pool or spa, and for maintaining all physical and mechanical equipment and records. Training and certification can be obtained by completion of one of the following courses or their equivalent:

(1) the NRPA, “Aquatic Facility Operator” (A.F.O.);

(2) the NSPF, “Certified Pool-Spa Operator” (C.P.O.);

(3) YMCA, “Pool Operator on Location” (P.O.O.L.);

(4) the NSPI, “Professional Pool & Spa Operator” (P.P.S.O.); or

(5) the ASPSA, “Licensed Aquatic Facility Technician” (L.A.F.T.).

(12) Section 265.204 (Water Quality at Post-10/1/99 and Pre-10/1/99 Pools and Spas) is amended as follows:

(c) Testing Frequency for post-10/1/99 and pre 10/1/99 pools and spas. When a post-10/1/99 or pre-10/1/99 Class A or B pool is open for use or when a post-10/1/99 or pre-10/1/99 Class D pool operated in conjunction with a Class A or B pool or spa is open for use, a test for disinfectant level and pH shall be conducted at least every 2 hours to assure compliance with subsection (a) of this section relating to required water quality parameters. In lieu of the above testing frequency, if a system is used to automatically control disinfectant and pH, testing for disinfectant level and pH shall be made once per day. If necessary, tests shall be conducted more frequently to assure proper disinfectant level and pH. When a class C or D pool or spa located at a Class C facility is open for use, it shall be required that tests for disinfectant level, and pH be made two or more times per day to assure compliance with subsection (a) of this section relating to water quality parameters. In lieu of this testing frequency, if an automatic system is used to control disinfection and pH, it shall be required that testing for disinfection and pH be made at least once per day. To assure proper disinfection and pH, tests shall be conducted more frequently if necessary. If inspections by regulatory authorities indicate non-complicance with subsection (a) If this section relating to water quality parameters, then the local regulatory authority may require that these tests be done at an appropriate frequency and may require recording in accordance with subsection (e) of this section.

(d) Other required tests for post-10/1/99 and pre-10/1/99 pools and spas. Test(s) for total chlorine, cyanuric acid, alkalinity and hardness at post-10/1/99 and pre-10/1/99 pools and spas shall be conducted as necessary to assure proper chemical control. A test for syanuric acid shall be conducted a minimum of one time during the operating season.

(f) Microbiological quality standards. Microbiological examination may be requested when deemed necessary by Anna. These samples shall be examined in accordance with the procedures described in the latest edition of Standard Methods for the Examination of Water and Wastewater, or as amended, (APHA, AWWA, and WPCF). All related fees shall be paid by the owner/ operator of the pool or spa.

(13) Section 265.205 (Spa Construction, Operation, and Maintenance) is amended as follows:

(f) Other safety related requirements for post-10/1/99 and pre-10/1/99 spas. Post-10/1/99 and pre-10/1/99 spas shall comply with the following.

(4)(B) There shall be a minimum of two deck depth markers per spa, regardless of spa size or shape. There shall also be an International No Diving Symbol in slip resistant tile, flush mounted every 25 feet around new and existing spas. In no event shall there be less than two International No Diving Symbols located at each new and existing spa. (4)(F) Deck depth markers in or on the deck surfaces shall be slip resistant tile, flush mounted.

(7) Signs. Signs for post-10/1/99 and pre-10/1/99 spas shall be securely mounted and readily visible to the spa user from inside the spa enclosure. Signage shall state the following:

(F) “ALCOHOL SHOULD NOT BE CONSUMED PRIOR TO OR WHILE USING SPA”

(14) Section 265.208 (Enforcement) is amended as follows:

(a) If inspections by the local regulatory authority determine that a person has caused, suffered, allowed or permitted a violation of Health and Safety Code 341.064 or any of these rules, the department or local regulatory authority may, among other things, in accordance with Health and Safety Code 341.092, assess civil penalties, seek injunctive relief in district court, or both. If inspections by the local regulatory authority determine that the operation or maintenance of the pool, spa, or facility constitutes a serious health or safety hazard for the user, the local regulatory authority may request voluntary immediate closure, perform involuntary closure, seek injunctive relief in district court, and/or use any other enforcement methods and/or remedies available. The local regulatory authority may take any and all appropriate legal remedies available to it including, but not limited to, immediately posting the pool closed. Whenever a pool voluntarily closes or is required to cease operation at any time, all access to the pool shall be restricted and a notice shall be posted at every entrance notifying the public that the pool is closed until further notice. Whenever a pool closes by mandate of the local regulatory authority or is required to cease operation, all access to the pool shall be restricted and a notice shall be posted at every entrance notifying the public that the pool is closed until further notice. Whenever a pool is involuntarily closed, operation can only be resumed when evidence is presented that all deficiencies that caused closure have been corrected and if explicitly authorized by the local regulatory authority. Such evidence may be in the form of a re-inspection by the local regulatory authority, or by other evidence acceptable to the local regulatory authority.

(f) The City Manager, or his/her designee, shall be responsible for the enforcement of the terms of this Article.

**Section 3. Offenses**

A person, firm, corporation or business entity commits an offense if:

(a) They violate any provision of this Article;

(b) They violate any of the posted signs as required by this Article;

(c) The owner or designated manager of such pool knowingly allows the pool to be used for swimming, diving or bathing purposes when it is closed or posted closed, whether voluntarily or involuntarily; or

(d) They occupy the pool area at any time the pool is closed, whether voluntarily or involuntarily.

**Section 4. Penalty**

Any violation of any of the terms of this Article, whether denominated in this Article as unlawful or not, shall be deemed a misdemeanor. Any person convicted of any such violation shall be fined in an amount not to exceed $2,000 for each incidence of violation. Each violation is considered a separate offense and will be punished separately.
*(Ord. No. 421-2008, adopted 12/9/2008)*

## Article 38 MOBILE HOMES AND MOBILE HOME PARKS

**Section 1. Mobile Homes and Mobile Home Parks**

**1.01 Definitions**

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*Certificate of Occupancy* means a certificate issued by the Building Official for the use of a building, structure and/or land,

when it is determined by him that the building, structure and/or land complies with the provisions of all applicable City codes, ordinances and regulations.

*(Ord. No. 1995-13, adopted 10/10/1995)*

*City* shall mean the City of Anna, Collin County, Texas.

Code Enforcement Officer means a person authorized by the City Council to perform the duties prescribed in this section.

*Licensee* means a person to whom a license for construction and/or operation and maintenance of a Mobile Home Park has been issued.

*Mobile Home* means a structure, constructed according to the rules of the United States Department of Housing and Urban Development, transportable in one of more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a single family Dwelling Unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems.

*Mobile Home Space* means the ground area allocated for occupancy by one Mobile Home in the layout of a park.

*Mobile Home Park* means a lot or tract of land under single ownership, upon which two or more Mobile Homes occupied as dwellings are located and which the City has licensed for use as a location for Mobile Homes.

*Off-Street Parking Space* means an unobstructed area of minimum nine feet by 18 feet dimensions, allocated for parking a vehicle in the layout of a park.

*Permittee* means a person to whom a nonconforming use permit for operation and maintenance of a park has been issued.

*Person* means any individual, corporation or legal entity.

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

**1.02 License Required for Proposed Mobile Home Parks**

(a) It shall be unlawful for any Person to construct, maintain or operate a Mobile Home Park within the City limits without a license therefore. An initial fee of $250, plus $10 for each Mobile Home lot, shall be required for the first annual Mobile Home Park license. Thereafter, a renewal fee of $25, plus $1 for each Mobile Home lot will be charged for each annual license for each successive year. All licenses shall be approved by the City Council subject to compliance with the terms and provisions until the license herein provided for shall have been issued. Written application for a license, signed by the applicant and accompanied by the exhibits listed below shall be submitted to the City Secretary. The application shall state the applicant's address and legal description of the land wherein construction of a Mobile Home Park is proposed and shall be accompanied by the following exhibits:

(1) A Plot Plan drawn to a scale of 1"=100' showing the location and configuration of the proposed park, including the layout of its Mobile Home Spaces, streets, parking spaces, walkways, and utility service lines. This Plot Plan does not replace or supersede the subdivision plat of the property required by state law to be recorded in the county record of the county in which the property is located, after review and approval of the City of Anna;

(2) Plans and specifications for all building and service facilities.

(b) Upon approval by the City Council, the City Secretary will issue a license.

**1.03 License Required for Existing Mobile Home Parks**

(a) Application for license: Every Person operating a Mobile Home Park within the City limits on the effective date of this section shall, within 60 days after that date, submit a written application for a license, accompanied by exhibits referenced in subsections 1.02(a)(1) and 1.02(a)(2) above. The City Council will review each license application and make recommendations thereon. In considering the disposal of any such application, the City Council will review each license application and make recommendations thereto. In considering the disposal of any such application, the City Council may take into account the character of the neighborhood, with respect to present and anticipated land use and development, wherein the park is located or is in operation. Upon approval of an application by the City Council, the City Secretary will issue a license.

(b) Nonconforming use permit: If the City Council denies a license to any applicant whose park was in operation on the effective date of this section, the City Secretary will issue to such applicant a nonconforming use permit that specifies the nonconformities with provisions of this section responsible for denial of the license and authorize continued operation of the park, subject to Permittee's compliance with all provisions of this section pertaining to park operation and maintenance. However, the permit does not make lawful the extension or enlargement of a specified nonconformity, either within the present confines of a park or by expanding its boundaries. After the remedy or suspension of a nonconforming use, such use shall not be restored or resumed. The fee for issuance of a nonconforming use permit shall be the same as the renewal fee for Mobile Home Parks as provided in subsection 1.02 above.

**1.04 Renewal or Transfer of Mobile Home Park License**

For validity, a license or nonconforming use permit shall be renewed each year. Upon inspection by the Code Enforcement Officer and with his approval and payment of an annual fee of $25 plus $1 for each Mobile Home lot, by Licensee or Permittee, renewal will be effected by the City Secretary. To transfer a license or permit, a written request to do so shall be submitted to the City Secretary. Upon inspection of the park by the Code Enforcement Officer, and with his approval, the City Secretary will issue a transfer, the fee therefor being $25. The City Secretary shall refuse to issue a renewal or transfer if the Mobile Home Park is in violation of any condition contained in the original license or any regulation contained herein applicable to operation and maintenance of the Mobile Home Park. In the event of denial, the applicant may appeal such denial to the City Council by written notice to the mayor within 10 days of such denial.

*Cross Reference: Part IV, Schedule of Fees*

**1.05 Mobile Home Park Design and Construction Standards**

After the effective date of this section, all Mobile Home Parks shall at least meet the following design and construction standards.

(a) Size of park; spacing and clearance for Mobile Homes.

(1) The minimum size of a park shall be two acres. All setback requirements of the City's subdivision and zoning ordinances shall apply to Mobile Homes as to single-family residences.

(2) When a park boundary abuts upon a public street, no Mobile Home shall be closer thereto than 25 feet.

(b) Off-Street Parking spaces

At least two Off-Street Parking spaces shall be provided for each Mobile Home Space to reduce traffic hazards and improve the appearance of the Mobile Home Park. Where individual parking spaces are used, parking may be in tandem. All parking areas shall be hard surfaced with all-weather material and located to eliminate interference with access to parking areas provided for other Mobile Homes and common parking areas within the park. Each parking space shall be maintained by the owner or agent free of cracks, holes, or other hazards.

(c) Streets and walkways

(1) Internal streets, no-parking area signs, and street name signs shall be privately owned, built, and maintained, unless dedicated to and accepted by the City. Streets shall be designed for safe and convenient access to all Mobile Home Spaces and to facilities for common use of park residents. Internal streets shall be kept open and free of obstruction in order that law enforcement and fire vehicles may be access to any areas of the Mobile Home Park. All internal streets shall be paved and constructed to the general construction standards established by the City and shall be maintained by the owner or agent free of cracks, holes, and other hazards.

(2) Every Mobile Home Park shall have direct access from a public street and each Mobile Home Space shall have direct access to a public street or to an internal street. Where an internal street provides access, the same shall be dedicated to the public as an emergency access easement to allow for the rapid and safe movement of vehicles used for the purpose of providing emergency health or public safety purposes. Each emergency access easement shall have a clear unobstructed width of at least 30 feet and shall connect at each end of a dedicated public street, or shall have a turnaround of a minimum of 60 feet diameter. Internal streets shall be named, and Mobile Home Spaces numbered. Street signs shall be of a color and size contrasting with those on public streets so that there is no confusion regarding which are private and which are public streets. These signs and numbers shall be of standard size and placement to facilitate location by emergency vehicles. All parks shall provide concrete walkways of minimum 30 inches in width for pedestrian access to each Mobile Home from a street constructed to specifications approved by the City.

(d) Water supply

(1) An adequate supply of potable water shall be supplied through a water supply system to each Mobile Home Space through piping conforming with the City's plumbing regulations, and an outdoor hydrant shall be installed at each Mobile Home Space, at least four inches above the ground.

(2) Any Mobile Home Park or permanent Mobile Home in violation of the terms and provisions of this section is hereby declared to be a public nuisance and the appropriate officers of the City are hereby authorized to institute any action necessary to restrain or Abate such violation. Owners of Mobile Home Parks or trailer courts shall have filed with the City a survey showing all the property they own intended for use as a Mobile Home Park or trailer court, and the improvements existing on the property, and a schedule of changes to be made during a period of time not more than five years to bring the Mobile Home Park to a conforming status.

(e) Sewage disposal

Each Mobile Home in a park space shall be served by wastewater treatment facility which meets county and state health department regulations. The park shall be located and graded as to drain away all surface water in a safe and efficient manner. Accumulations of stagnant water will not be permitted. Culverts and drainage ditches shall be maintained free of dirt and debris by the owner or agent.

(f) Drainage

The park shall be located and graded as to drain away all surface water in a safe and efficient manner. Accumulations of stagnant water will not be permitted. Culverts and drainage ditches shall be maintained free of dirt and debris by the owner or agent.

(g) Fire Protection

Service buildings (office, laundry facilities, repair shops, etc.) shall be provided with emergency fire extinguishing apparatus of such types and sizes as may be prescribed by the City's fire prevention regulations. Fire resistant skirting with the necessary vents, screens, and/or openings shall be installed on each Mobile Home within 30 days after its emplacement in the park. Each Mobile Home shall be equipped with an operable smoke detector. To insure compliance by the Mobile Home owner with these requirements, Licensee shall make such compliance and conformation thereof a condition in the agreement for rental of a Mobile Home Space.

(h) Fuel supply

Gas piping systems shall be installed underground in accordance with the City's plumbing regulations. Gas outlets shall be capped when the Mobile Home Spaces they serve are vacant. Natural gas shall be supplied except that a liquefied petroleum gas system may be installed if the nearest available natural gas supply is more than one thousand feet from the park and is approved by the City Council. LPG systems shall conform with applicable codes and regulations

by the Texas Railroad Commission pertaining thereto.

(i) Extensions of Mobile Homes

(1) No structural extension shall be attached to a Mobile Home in violation of the spacing and clearance requirements of this section.

(2) An extension that does not violate those requirements may be installed if it meets the following requirements:

(i) constructed of metal, fire resistive, double-wall panels with mechanically connected joints;

(ii) length no greater than that of Mobile Home to which it is necessary; and

(iii) to be dismantled on removal from the park of the Mobile Home to which it is accessory.

**1.06 Operation and Maintenance of Mobile Home Parks**

All Mobile Home Parks shall comply with the following operation and maintenance regulations:

(a) Licensee or Permittee shall keep up-to-date and have available for inspection at the park a register of park occupancy that shall contain the following information:

(1) name and address of park residents;

(2) mobile Home registration data, including make, length, width, year of manufacture, and identification number;

(3) location of each Mobile Home by park street name and number.

(b) A new register shall be initiated on January 1st each year and the old register retired but retained on the park premises for at least three years thereafter.

(c) The Licensee or Permittee shall be responsible for keeping the park in a clean, safe and sanitary condition free of accumulations of rubbish and of rank growth of grass or weeds that might constitute a fire hazard or give harborage to noxious insects. Walks, streets and parking spaces shall be maintained in a serviceable all-weather condition.

(d) No open fire or burning shall be permitted within the park except for outdoor cooking or camper type stoves or charcoal grills. No flammable liquids shall be stored beneath Mobile Homes. The fire resistant skirting shall be maintained intact to prevent accumulations of flammable materials beneath Mobile Homes. Emergency fire extinguishing apparatus, if required, shall be inspected and tested at intervals of time suggested by the manufacturer.

(e) The storage, collection, and disposal of refuse and garbage shall be so conducted as to create no health hazards, rodent harborage, insect breeding grounds, fire hazards, litter of air pollution. Each Mobile Home Space must utilize the City's refuse collection services.

(f) Licensee or Permittee shall provide that all Mobile Homes located in the park be installed and anchored in accordance with Texas Department of Labor and Standards rules and regulations.

**1.07 Mobile Home Parks within City's Extraterritorial Jurisdiction**

No Person shall subdivide land within the extraterritorial Jurisdiction of the City for the purpose of creating a Mobile Home Park until a plat of the proposed park has been approved by the City Council. All plats shall be submitted in accordance with the procedures as outlined in the City's subdivision regulations. Such plats shall be accompanied by the information outlined in subsections 1.02(a)(1) and 1.02(a)(2) hereof.

**1.08 Liability of the City under this Section**

Neither the City nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of orders issued or work done in compliance with the terms of this section.

*(Ord. No. 1995-11, adopted 10/10/1995)*

**1.09 Regulation of Mobile Homes Outside of Mobile Home Parks**

Existing Mobile Homes: Mobile Homes not located in Mobile Home Parks prior to October 10, 1995 shall be defined as nonconforming uses. Mobile Homes located in nonconforming areas shall be subject to the relevant provisions of this section.

**1.10 Specific Use Permit**

It shall hereafter be unlawful to any Person to locate or maintain any Mobile Home in any place in the City of Anna other than in a duly licensed and lawful Mobile Home Park or Mobile Home district unless such Person shall first secure a specific use permit from the City Council upon written application therefore filed with the City Secretary. Any specific use permit providing for the location of a Mobile Home in a nonconforming area shall be valid only for the period of time specified by the City Council or until the Mobile Home is removed from the site, whichever is sooner. A Mobile Home cannot be replaced by another Mobile Home in the absence of another specific use permit. The transfer of title of a Mobile Home from one Person to another Person shall invalidate the specific use permit and the Certificate of Occupancy. Any Person who transfers title of a Mobile Home in a nonconforming area shall inform the City Secretary of such transfer within seven days of the exchange.

**1.11 Application for Permit and Fee**

An application for a specific use permit to locate a Mobile Home outside a licensed Mobile Home Park shall be submitted to the City Secretary. All applications for specific use permits shall be made upon standard forms provided by the building official and shall contain the following:

(a) name and address of the applicant.

(b) location and description of the proposed Mobile Home site.

**1.12 Site Plan Required**

All applications for specific use permits shall include three copies of the Site Plan at a minimum scale of one inch equals 100 feet. The site pan shall include the following information, at a minimum:

(a) the area and dimensions of the tract of land, with identification of location and boundaries;

(b) the location, width, and specifications of driveways, roadways, and walkways;

(c) the location and specifications of water and sewer lines and riser pipes;

(d) the location and details of lighting, electrical and gas systems;

(e) such other information as the building official and Planning and Zoning Commission my reasonably require.

**1.13 Site Requirements**

Mobile Homes located outside Mobile Home Parks shall conform to all area and setback requirements of the R-1 Single Family Residential District.

**1.14 Fee**

All specific use permit applications shall be accompanied by a fee of $10 dollars.

*Cross Reference: Part IV, Schedule of Fees*

**1.15 Review and Enforcement**

Permit applications shall be reviewed by the Planning and Zoning Commission which shall then make a recommendation to the City Council. The City building official shall be responsible for enforcing the decision of the City Council relating to the provisions of this section.

**1.16 Permit Required for Existing Mobile Homes**

(a) Every Person maintaining a Mobile Home Park in the City of Anna outside a duly licensed Mobile Home Park shall, within 60 days after October 10, 1995, submit a written application for a permit. The Code Enforcement Officer will review each application and make recommendations thereon to the City Council. In considering the disposal of any such application, the City Council may take into account the character of the neighborhood, with respect to present and anticipated land use and development, wherein the Mobile Home is located. Upon approval of an application by the City Council, the City Secretary will issue a permit.

(b) If the City Council denies a permit to any applicant whose Mobile Home was in place on October 10, 1995, the City Secretary will issue to such applicant a nonconforming use permit that specifies the nonconformities with provisions of this section responsible for denial of the permit and authorizes continued use of the Mobile Home, subject to Permittee's compliance with all provisions of nonconforming use permit. However, the permit does not make lawful the extension or enlargement of a specified nonconformity. After the remedy or suspension of a nonconforming use, such use shall not be restored or resumed. The fee for issuance of a nonconforming use permit shall also be $15.

(c) For validity, such permit shall be renewed each year. Upon inspection by the Code Enforcement Officer and with his approval and payment of an annual fee of $5 by Permittee, renewal will be affected by the City Secretary.

(d) However, an annual permit renewal fee shall not be required if such Mobile Home is mounted upon a permanent foundation.

(e) To transfer a permit, a written request to do so shall be submitted to the City Secretary. Upon inspection of the park by the Code Enforcement Officer, and with his approval, the City Secretary will issue a transfer, the fee therefor being $5. The City Secretary shall refuse to issue a renewal or transfer if the Mobile Home is in violation of any condition contained in the original permit or any regulation contained herein applicable to use or maintenance of the Mobile Home. In the event of denial by the City Secretary, the applicant may appeal such denial to the City Council by written notice to the mayor within 10 days of such denial.

*Cross Reference: Part IV, Schedule of Fees*

**1.17 Permit Conditions**

The following use and maintenance regulations shall be applicable to Mobile Homes located within the City of Anna:

(a) all Mobile Homes shall be installed and anchored in accordance with Texas Department of Labor and Standards rules and regulations.

(b) all Mobile Homes occupied as living quarters shall contain operable smoke detectors.

(c) no Mobile Home manufactured prior to June 15, 1976, shall be occupied as living quarters within the City.

(d) all Mobile Homes occupied as living quarters shall be located and placed on separate lots with the front door facing the street in the same manner as other residential structures in the block in order to conform as closely as possible. All building setback requirements shall be followed when placing a Mobile Home for permanent occupancy as provided for in the zoning regulations.

(e) the temporary parking of only one Mobile Home belonging to the owner or tenant of the dwelling upon the lot on which the Mobile Home is placed may be permitted behind the front building setback line of the lot provided no living quarter shall be maintained in such Mobile Home while such mobile is parked or stored. The Mobile Home so stored shall not be applicable to such temporarily stored, unoccupied Mobile Homes.

(f) all Mobile Homes shall have the wheels removed and be mounted upon a permanent type foundation and have fire resistant skirting installed around the bottom of the Mobile Home.

(g) all permits shall be issued subject to compliance with all other applicable codes and ordinances of the City of Anna, and with all applicable deed restrictions.

(h) no driveway shall be permitted in the front rear of any Mobile Home lot being occupied as living quarters except along either side of the lot at a right angle to the street or as a circular driveway.

(i) fire resistant skirting with the necessary vents, screens and/or openings shall be required on all Mobile Homes and shall be installed within 30 days after emplacement of the Mobile Home. Skirting materials should be aluminum, vinyl, or masonite materials.

(j) skirting, porches, awnings, and other additions, when installed, shall be maintained in good repair. The use of space immediately underneath a Mobile Home storage shall be permitted only if the storage area shall have a base of impervious material and stored items shall not interfere with the underneath inspection of the Mobile Home.

**1.18 Certificate of Occupancy**

Upon compliance with the relevant provisions of this section a Certificate of Occupancy shall be issued to the Mobile Home owner.

**1.19 Inspection**

(a) The building official is hereby authorized and directed to make such inspections as are necessary to determine compliance with this section.

(b) The building official shall have the power to enter at reasonable times upon any private or public property for the purpose of inspecting and investigating conditions relating to the enforcement of this section.

**1.20 Notices, Hearing and Orders**

(a) Whenever it is determined that there are grounds to believe that there has been a violation of any provision of this section, the building official shall give notice of such alleged violation to such Licensee or agent, as hereinafter provided. Such notice shall

(1) be in writing;

(2) include a statement of the reasons for its issuance;

(3) allow a reasonable time for the performance of the act it requires;

(4) be served upon the Licensee or his agent, provided that such notice or order shall be deemed to have been properly served upon such Licensee or agent when a copy thereof has been sent by mail to his last known address, or when he has been served with such notice by any method authorized or required by the laws of this State; and

(5) contain an outline of remedial action which if taken, will effect compliance with the provision of this section.

(b) Any Person affected by the refusal of the building official to issue a permit under the provisions of this section may request and shall be granted a hearing on the matter before the City Council provided that such Person shall file within 15 days after the day the permit was refused in the office of the building official a written petition requesting such hearing and setting forth a brief statement of the grounds therefor. Upon receipt of such petition, the building official shall forward it to the City Secretary who shall set a time and place for such hearing and shall give the petitioner written notice thereof. At such hearing the petitioner shall be given the opportunity to be heard and to show why such refusal should be modified or withdrawn.

(c) Any Person affected by any notice which has been issued in connection with the enforcement of any provision of this section may request and shall be granted a hearing on the applicable matter before the City Council, provided that such Person shall file within 15 days after the day the notice was served, in the office of the City Secretary, a written petition requesting such hearing and setting forth a brief statement of the grounds therefore. The filing of the request for a hearing shall operate as a stay of the notice and of the suspension.

Upon receipt of such petition, the building official shall forward such petition to the City Secretary who shall request the mayor to set a time and pace for such hearing and shall give the petitioner written notice thereof. At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.

(d) After such hearing, the building official shall issue an order in writing sustaining, modifying or withdrawing the refusal, which order shall be served as provided in subsection 1.20(a)(4) hereof. Upon failure to comply with an order by the building official sustaining or modifying a decision thereof, the occupancy permit affected by the order shall be revoked.

(e) Whenever the building official finds that an emergency exists which requires immediate action to protect the public health or safety, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that action be taken as he may deem necessary to meet the emergency. Notwithstanding any other provisions of this section, such order shall be effective immediately. Any Person to whom such an order is directed shall comply therewith immediately, but upon written petition to the mayor, shall be afforded a hearing as soon as possible. The provisions of subsection 1.20(d) of this section shall be applicable to such hearing and the order issued thereafter.

**1.21 Exceptions**

No permit shall be required and the provisions of this section shall not be applicable to unoccupied Mobile Homes displayed for sale on Mobile Home sales lots and Mobile Homes in storage on Mobile Home manufacturing plant premises.

**1.22 Penalties**

Any person, firm, corporation or business entity violating this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be subject to fine not to exceed the maximum prescribed by law, unless otherwise specifically set forth in this Code. Each continuing day's violation under this section shall constitute a separate offense. The penal provisions imposed under this section shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law.

*(Ord. No. 1995-13, adopted 10/10/1995)*

**Article 39 Reserved**

**Article 40 Reserved**

## Article 41 MUNICIPAL COURT

**Section 1. Municipal Courts established**

This article creates the City of Anna Municipal Court No. 1 and the City of Anna Municipal Court No. 2 ("the Courts"). The heretofore existing City Municipal Court shall now be known as the City of Anna Municipal Court No. 1. The Courts shall operate in accordance with this article and applicable state law. In the event of a direct conflict between a section, term, or provision in this article and a provision of state law, state law shall govern to the extent of such conflict and this article shall be deemed to have been amended to the extent necessary to harmonize the conflict.

**Section 2. Jurisdiction, powers and duties**

(a) The Courts have exclusive original jurisdiction within the City of Anna's corporate limits—and, to the extent

permitted by state law, within its extraterritorial jurisdiction—in all criminal cases that:

(1) arise under:

(2) the ordinances of the City; or

(3) a resolution, rule, or order of a joint board operating an airport under Section 22.074, Transportation Code; and

(4) are punishable by a fine not to exceed:

(5) $2,000 in all cases arising under City 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

(6) $500 in all other cases arising under a City ordinance or a resolution, rule, or order of a joint board.

(b) The Courts have concurrent jurisdiction with one another and with the justice court of a precinct in which the City is located in all criminal cases arising under state law that arise within the City of Anna's corporate limits—and, to the extent permitted by state law, within its extraterritorial jurisdiction—in all criminal cases that are Class C misdemeanors and:

(1) are punishable only by a fine, as defined in Subsection (c); or

(2) arise under Chapter 106, Texas Alcoholic Beverage Code, and do not include confinement as an authorized sanction.

(c) In this article, an offense that is punishable by "fine only" is defined as an offense that is punishable by fine and other such sanctions and remedies, if any, as authorized by statute not consisting of confinement in jail or imprisonment.

(d) The fact that a conviction in a municipal court has as a consequence the imposition of a penalty or sanction by an agency or entity other than the court, such as a denial, suspension, or revocation of a privilege, does not affect the original jurisdiction of the Courts.

(e) The Courts have jurisdiction in the forfeiture and final judgment of all bail bonds and personal bonds taken in criminal cases of which the court has jurisdiction.

(f) The Courts have all the powers and duties as are now, or as may be, prescribed by state law.

(g) In general, and subject to exceptions based on scheduling requirements due docket volumes, cases within the jurisdiction of the Courts shall be assigned by the Municipal Court Clerk as follows:

(1) Court No. 1 shall hear all cases not assigned to Court No. 2 and any cases transferred to it by Court No. 2.

(2) Court No. 2 shall hear all cases involving traffic-related offenses including, but not limited to motor vehicle moving and non-moving violations, motor vehicle equipment violations, and parking violations. It shall also hear any additional cases that may be transferred to it by Court No. 1.

**Section 3. Municipal Court Judge Appointment and Qualifications**

(a) Upon the City Manager's recommendation, the City Council may appoint or reject by the affirmative vote of a majority of the full membership of the City Council one or more Municipal Judge(s) of the Courts as may be necessary.

(b) A person appointed must be a competent, duly qualified attorney, licensed and practicing for at least two years in the State of Texas.

(c) However, in the event a duly qualified attorney is not available, the City Council may then select the most qualified person to be the Municipal Judge(s).

(d) The Municipal Judge(s) must be appointed to a term of two years and may be appointed to additional consecutive terms upon completing a term of office.

(e) The appointment of the Municipal Judge(s) may be terminated, without cause, at any time by the affirmative vote of a majority of the full membership of the City Council.

(f) The Municipal Judge(s) may receive compensation as determined by the City Council.

(g) In the event of failure of any Municipal Judge to perform his or her duties, the Mayor may act in the Municipal Judge's place and stead (and in the event of a vacancy, until a Municipal Judge is appointed by the City Council to fill the vacancy).

(h) If the Mayor acts as a Municipal Judge, the Mayor may be compensated at the same salary, if any as the Municipal Judge for whom the Mayor is acting.

**Section 4. Municipal Court Clerk and Deputy Clerk Appointments**

(a) The Municipal Court Clerk and any duly appointed Deputy Clerk(s) of the Courts have the power to administer oaths, certify affidavits, make certificates, affix the seal of the Courts, and perform all usual and necessary clerical acts in conducting the business of the Courts including but not limited to, the keeping of records and accounts of the Court.

(b) The Municipal Clerk and any Deputy Clerk(s) report to the Judges regarding court matters only, and are otherwise administratively responsible to the City Manager.

(c) The Municipal Clerk and any Deputy Clerk(s) are at-will employees hired by the City Manager.

**Section 5. Municipal Court Prosecutor**

The Municipal Court prosecutor is the City Attorney or any deputy City Attorney as designated by the City Attorney.

**Section 6. Municipal Court Bailiff and Warrant Officer**

The Municipal Court bailiff is the City's Chief of Police or any City policy officer as designated by the Chief of Police. The Chief of Police or any City police officer as designated by the Chief of Police is the warrant officer and must serve all process or papers issued by the court when requested by the Judge.

**Section 7. Judge Vacancy**

The City Council must by appointment fill a vacancy in the office of Municipal Judge for the remainder of the unexpired term of the office only.

**Section 8. Sitting for Disqualified or Recused Judge**

(a) If a judge is disqualified or recused in a pending case, the case may be transferred to another municipal court within the City, or the judge of another municipal court located in an adjacent municipality may sit in the case.

(b) A Municipal Judge may not sit in a case for another Municipal Judge under this article if either party objects to the judge. An objection under this subsection must be filed before the first hearing or trial, including pretrial hearings, over which the judge is to preside.

**Section 9. Jury Fee**

(a) A defendant convicted by a jury must pay a jury fee of $3. A defendant who requests a trial by jury and who withdraws the request no earlier than 24 hours before the time of trial must pay a jury fee of $3, if the defendant is convicted of the offense or final disposition of the defendant's case is defendant's case is deferred.

(b) If two or more defendants are tried jointly, only one jury fee of $3 may be imposed under this article. If the defendants sever and are tried separately, each defendant convicted shall pay a jury fee.

(c) In this article, "conviction" has the meaning assigned by Section 133.101 Local Government Code.

**Section 10. Technology Fund Fee**

(a) The City establishes and shall maintain a technology fund requiring a defendant convicted of a misdemeanor offense to pay a technology fee not to exceed $4 as a cost of court.

(b) In this section, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person is placed on community supervision, including deferred adjudication community supervision; or

(3) the court defers final disposition of the person's case.

(c) The Municipal Court Clerk shall collect the costs and pay the funds to the municipal treasurer, or to any other official who discharges the duties commonly delegated to the municipal treasurer, for the deposit in a fund to be known as the municipal court technology fund.

(d) A fund designated by this Section may be used only to finance the purchase of or to maintain technological enhancements for the Courts, including:

(1) computer systems;

(2) computer networks;

(3) computer hardware;

(4) computer software;

(5) imaging systems;

(6) electronic kiosks;

(7) electronic ticket writers; and

(8) docket management systems.

(e) The municipal court technology fund shall be administered by or under the direction of the City Council.

**Section 11. Juvenile Case Manager Fund**

(a) In this section, "fund" means a juvenile case manager fund.

(b) The City establishes and shall maintain a juvenile case manager fund requiring a defendant convicted of a fine-only misdemeanor offense to pay a juvenile case manager fee of $5 as a cost of court.

(c) A judge may waive the fee required by Subsection (b) in a case of financial hardship.

(d) In this section, a defendant is considered convicted if:

(1) a sentence is imposed on the defendant;

(2) the defendant receives deferred disposition, including deferred proceedings under Article 45.052 or 45.053 of the Texas Code of Criminal Procedure; or

(3) the defendant receives deferred adjudication in county court.

(e) The clerks of the respective courts shall collect the costs and pay them to the City treasurer or to any other official who discharges the duties commonly delegated to the City treasurer for the deposit in the fund.

(f) A fund created under this section may be used only to finance the salary and benefits of a juvenile case manager employed under Article 45.056 of the Texas Code of Criminal Procedure.

(g) The fund must be administered under the direction of the City Council.

**Section 12. Civil Justice Fee**

(a) In this section, "moving violation" means an offense that:

(1) involves the operation of a motor vehicle; and

(2) is classified as a moving violation by the Department of Public Safety under Section 708.052, Transportation Code.

(b) A defendant convicted of a moving violation shall pay a fee of 10 cents as a cost of court.

(c) In this section, a person is considered convicted if:

(1) a sentence is imposed on the person;

(2) the person receives community supervision, including deferred adjudication; or

(3) the court defers final disposition of the person's case.

(d) The clerks of the respective courts shall collect the costs described by this section. The clerk shall keep separate records of the funds collected as costs under this section and shall deposit the funds in the City treasury, as appropriate.

(e) The custodian of a City treasury shall:

(1) keep records of the amount of funds on deposit collected under this section; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this section during the preceding quarter.

(f) The City may retain 10 percent of the funds collected under this section by an officer of the City as a collection

fee if the custodian City treasury complies with subsection (e).

(g) If no funds due as costs under this section are deposited in the city treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this section to the credit of the Civil Justice Data Repository fund in the general revenue fund, to be used only by the Commission on Law Enforcement Officer Standards and Education to implement duties under Section 1701.162, Texas Occupations Code.

(i) Funds collected under this section are subject to audit by the comptroller.

*(Ord. No. 487-2010, adopted 02/09/2010)*

**Section 13. Municipal Court Building Security Fund.**

(a) In this section, "fund" means the Municipal Court Building Security Fund.

(b) In this section, "conviction" has the meaning assigned by Texas Code of Criminal Procedure Art. 102.017(c).

(c) A defendant convicted of a misdemeanor offense in a municipal court must pay a municipal court building security fee of $3 as a cost of court.

(d) The clerk(s) of the respective courts shall collect the costs and pay them to the City treasurer, or to any other official who discharges the duties delegated to the City treasurer or finance director, for the deposit into the fund.

(e) The fund created under this section may be used only to finance security personnel for the municipal courts and to finance items used for providing security services for the buildings holding the municipal court, including:

(1) the purchase or repair of X-ray machines and conveying systems;

(2) handheld metal detectors;

(3) walkthrough metal detectors;

(4) identification cards and systems;

(5) electronic locking and surveillance equipment;

(6) video teleconferencing systems;

(7) bailiffs, deputy sheriffs, deputy constables, or contract security personnel during times when they are providing appropriate security services;

(8) signage;

(9) confiscated weapon inventory and tracking systems;

(10) locks, chains, alarms, or similar security devices;

(11) the purchase or repair of bulletproof glass;

(12) continuing education on security issues for court personnel and security personnel; and

(13) warrant officers and related equipment.

(f) The fund must be administered under the direction of the City Council.

*(Ord. No. 568-2012, adopted 1/10/2012)*

**Section 14. Fees for Services of Peace Officers.**

(a) In this section, "conviction" or "convicted" has the meaning assigned by Texas Local Government Code Section 133.101.

(b) A defendant convicted of a misdemeanor shall pay the following fees for services performed in the case by a peace officer.

(1) $5 for issuing a written notice to appear in court following the defendant's violation of a traffic law, municipal ordinance, or penal law of this state, or for making an arrest without a warrant.

(2) $50 for executing or processing an issued arrest warrant or capias, with the fee imposed for the services of:

(A) The law enforcement agency that executed the arrest warrant or capias, if the agency requests of the court, not later than the 15th day after the date of the execution of the arrest warrant or capias, the imposition of the fee on conviction; or

(B) The law enforcement agency that processed the arrest warrant or capias, if: (i) the arrest warrant or capias was not executed; or (ii) the executing law enforcement agency failed to request the fee within the period required by Paragraph (A) of this subsection.

(3) $5 for summoning a witness;

(4) $35 for serving a writ not otherwise listed in this section;

(5) $10 for taking and approving a bond and, if necessary, returning the bond to the courthouse;

(6) $5 for a commitment or release;

(7) $5 for summoning a jury, if a jury is summoned; and

(8) $8 for each day's attendance of a prisoner in a habeas corpus case if the prisoner has been remanded to custody or held to bail.

(c) In addition to fees provided by subsection (b) of this section, a defendant required to pay fees under this section shall also pay 29 cents per mile for mileage required of an officer to perform a service listed in this subsection (c) and to return from performing that service. If the service provided is the execution of a writ and the writ is directed to two or more persons or the officer executes more than one writ in a case, the defendant is required to pay only mileage actually and necessarily traveled. In calculating mileage, the officer must use the railroad or the most practical route by private conveyance. The defendant shall also pay all necessary and reasonable expenses for meals and lodging incurred by the officer in the performance of services under this section, to the extent such expenses meet the requirements of Texas Government Code Section 611.001. This subsection applies to:

(1) conveying a prisoner after conviction to the county jail;

(2) conveying a prisoner arrested on a warrant or capias issued in another county to the court or jail of the county; and

(3) traveling to execute criminal process, to summon or attach a witness, and to execute process not otherwise described by this section.

(d) If an officer attaches a witness on the order of a court outside the county, the defendant shall pay $10 per day or part of a day spent by the officer conveying the witness and actual necessary expenses for travel by the most practical public conveyance. In order to receive expenses under this subsection, the officer must make a sworn statement of the expenses and the judge issuing the attachment must approve the statement.

(e) A fee under subsection (b)(1) or (b)(2) of this section shall be assessed upon conviction, regardless of whether the defendant was also arrested at the same time for another offense, and shall be assessed for each arrest made of a defendant arising out of the offense for which the defendant has been convicted.

(f) In addition to fees proved by Subsections (a) through (d) of this section, a defendant required to pay fees under this section shall also pay the costs of overtime paid to a peace officer for the time spent testifying in the trial of the case or for traveling to or from testifying in the trial of the case.

(g) The fees collected under this section by the court clerk shall be deposited in the City's general fund unless otherwise directed by the City Council.

*(Ord. No. 568-2012, adopted 1/10/2012)*; *(Ord. No. 569-2012, adopted 1/24/2012)*

**Section 15. Child Safety Fund.**

(a) In this section, "fund" means the Child Safety Fund.

(b) In this section, "conviction" or "convicted" has the meaning assigned by Texas Local Government Code Section 133.101.

(c) A person convicted of a violation of an ordinance, regulation, or order regulating the stopping, standing, or parking of vehicles (as allowed by Section 542.202, Transportation Code, or Chapter 682, Transportation Code) shall pay an additional fine of $5 for each parking violation as a cost of court.

(d) A person convicted of an offense under Subtitle C, Title 7, Transportation Code, when the offense occurs within a school crossing zone as defined by Section 541.302 of that code, shall pay as court costs $25 in addition to other taxable court costs. A person convicted of an offense under Section 545.066, Transportation Code, shall pay as court costs $25 in addition to other taxable court costs.

(e) A person convicted of an offense under Section 25.093 or 25.094, Education Code, shall pay as taxable court costs $20 in addition to other taxable court costs.

(f) The additional court costs under subsections (c)-(e) of this Section 15 shall be collected in the same manner that other fines and taxable court costs in the case are collected.

(g) The money collected under this Section 15 must be used for a school crossing guard program if, at the time the funds are received, the City operates one. If the City does not operate a school crossing guard program or if the money received from court costs from municipal court cases exceeds the amount necessary to fund the school crossing guard program, the City may:

(1) deposit the additional money in an interest-bearing account;

(2) expend the additional money for programs designed to enhance child safety, health, or nutrition, including child abuse prevention and intervention and drug and alcohol abuse and prevention; or

(3) expend the additional money for programs designed to enhance public safety and security.

(h) The court clerk, or other collecting officer as designated by the court clerk, shall keep separate records of the money collected under this Section 15.

*(Ord. No. 568-2012, adopted 1/10/2012)*

**Article 42 Reserved**

**Article 43 Reserved**

**Article 44 Reserved**

## Article 45 OIL AND GAS DRILLING REGULATIONS

### Section 1. Oil and Gas Drilling - Generally

#### 1.01 Purpose

These regulations are established for the purpose of promoting and protecting the public health, safety, and general welfare of the community and in the furtherance of conserving the value of property and establishing a community desirable to reside therein.

#### 1.02 Definitions

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary. Generally, all technical or oil and gas industry words or phrases used herein and not specifically defined herein shall have that meaning customarily attributed to them by the oil and gas industry.

*Drilling Unit* means one contiguous body or block of land composed of one or more tracts complying with the spacing regulations promulgated by the State Railroad Commission or its successor.

*Fire Zone* means any area within the corporate limits of the City designated as a Fire Zone by any provision of this section or in any section duly adopted and approved by the City Council.

*Permittee* means the Person to whom the City issues a permit to drill and operate a Well under the provisions of this section, or its administrators, executors, heirs, successors, and assigns.

*Well* means any hole or holes, bore or bores, which is, or are, drilled, bored, dug, sunk, or put down to any depth, strata, sand, or formation for the purpose of exploring for or ascertaining the existence of any oil, gas, or liquid

hydrocarbon, or for the purpose of producing and recovering any oil, gas, or liquid hydrocarbon.

**1.03 Liability of City under This Section**

Neither the City nor any authorized agent acting under the terms of this section shall be liable or have any liability by reason of orders issued, or not issued, or work done, or not done, in compliance with the terms of this section.

**1.04 State Certification and City Permit Required**

Every Person, firm, corporation, association, or other legal entity desiring to drill and/or operate any gas or oil Well of any kind in the City limits must obtain the proper permit from the City Secretary before proceeding. To obtain said permit the Person, firm, corporation, association, or other legal entity shall submit to the City Secretary proof of valid State Certification and compliance with the rules and regulations as promulgated by the State Railroad Commission, or its successor. In addition, a permit fee of $5,000 shall be required before any such permit may be issued.

**1.05 Violation of State and/ or Federal Laws, Rules, and Regulations**

Any violation of the state laws or any rules, regulations, or requirement of any state or federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining, or abandoning an oil or gas Well, or related appurtenances, equipment or facilities, fire protection, blowout protection, safety protection, or convenience of Persons or property, shall also be a violation of this section and shall be punishable in accordance with the provisions hereof.

**1.06 Sanitary Maintenance of Wells**

The premises of each Well shall be kept clean and sanitary, free from rubbish of every character, to the satisfaction of the City Health Officer at all times drilling operations or reworking operations are being conducted and as long thereafter as oil or gas is being produced from the Well.

**1.07 When Watchman Required**

At all times from the start of erection of a derrick, a mast, or a gin pole until the Well is completed as a producer and enclosed with a fence or until the Well is abandoned and plugged, the Permittee shall keep a watchman on duty on the premises.

**1.08 Drilling Within Fire Zones**

The drilling of a Well within the Fire Zone of the City will be permitted only under the following conditions and restrictions:

(a) By first securing the written approval of the City Council;

(b) By complying with all of the terms and provisions of this section;

(c) No butane or propane gas shall be used in any such drilling or producing operation; and

(d) No tank batteries shall be located or situated within the Fire Zone.

**1.09 Reworking the Well**

Any operator desiring to rework a Well shall give the City Council written notice of this intent prior to the commencement of reworking operations; provided, however, in the event of an emergency an operator may proceed with such reworking without notice.

**1.10 Well Location- Generally**

No Well shall be drilled and no permit shall be issued for any Well to be drilled at any location which is nearer than 500 feet to any residence, building or structure without the applicant for a permit having first secured the written permission of the owner or owners thereof.

**1.11 Well Location- Streets, Alleys, and Public Ways**

(a) It shall be unlawful to drill any Well and no permit shall be issued for any Well to be drilled at any location which is within 50 feet of the boundary line of any of the streets, alleys, public ways, and water wells of the City. No street, alley or public way shall be blocked, encumbered or closed in any drilling or production operation, except on a temporary basis and then only by special permit issued by the City Council.

(b) Every oil and gas Well drilled within 1,500 feet of the site of any existing or designated future municipal water well of the City shall have casing set and cemented down to the first impervious stratum below the Trinity sand formation; and similar casing shall be set and cemented on Wells located at greater distances from such water wells when requested by the City Council. Such requirements may be waived by the City Council for good cause shown after due hearing; but, if not waived by the City Council, may be enforced by injunction, or any other available remedy. No drilling permit shall *ever* be issued to any Person for the drilling or operation of any Well, when such Person is in default hereunder; and any such permit inadvertently issued shall be deemed wholly void from the beginning.

(c) It shall be unlawful to drill any Well and no permit shall be issued for any Well to be drilled at any location that is within or within 50 feet of the boundary line of a public park or a park owned and maintained by a homeowner's association.

**1.12 Drilling Unit to Have Only One Well**

No permit shall authorize the drilling, completion, and operation of more than one Well to each reservoir on each Drilling Unit, as provided by the State Railroad Commission, or its successor, on such unit, and it shall be unlawful to drill on each reservoir more than one Well on each unit; provided, however, that in the event a Well is lost or abandoned as a dry hole, the Permittee may relocate the Well on the Drilling Unit involved and drill and complete such relocated Well under the permit for the first Well by filing a plat and certificate showing the abandonment of the first Well and the location of the second Well.

**1.13 Abandonment and Plugging**

Whenever any Well is abandoned, it shall be the obligation of the Permittee and the operator of the Well to set a cement plug in the casing from the base of the Wilcox formation to the specifications as set forth by the State Railroad Commission, or its successor.

**1.14 Casing - Generally**

The productive string shall have a mill test of 1,800 pounds for Wells 6,000 feet or less in depth. The surface casing shall be new pipe and shall have a mill test of 1,100 pounds.

**1.15 Casing - Setting and Cementing**

No Well shall be drilled within the City without properly setting the surface casing. No Well shall be drilled within the City

without cementing the surface casing by the pump and plug method with sufficient cement to completely fill all the annular space behind such casing to the surface of the ground, and without cementing the production string by the pump and plug method with sufficient cement to completely fill the annular space behind the production string to the surface of the ground. The production string shall be centralized from 1,000 feet to the surface with the use of five centralizers to be placed at depths of 100 feet, 300 feet, 500 feet, 700 feet and 950 feet. Sufficient cement shall be used so as to insure the circulation of cement from the bottom of the oil string to the surface.

**1.16 Christmas Tree and Well Head Connections**

The Christmas tree and all Well head connections on each Well head shall be as follows: On all Wells completed at a depth above 4,000 feet, the Christmas tree and Well head connections shall be at least a minimum working pressure of 1,000 pounds per square inch (psi) at a minimum test pressure of at least 4,000 psi; and on all Wells completed to a depth of from 4,001 feet to 7,000 feet, the Christmas tree and Well connections shall have at least a minimum working pressure of 3,000 psi and a minimum test pressure of at least 6,000 psi; and on all Well head connections there shall be at least a minimum working pressure of 5,000 psi and a minimum test pressure of at least 10,000 psi. In the event the surface shut-in pressure of any Well exceeds 2,000 psi, the flow string of the Christmas tree shall be equipped with an automatic closing safety valve in addition to the regular control valves.

**1.17 Derrick and Rig**

It shall be unlawful for any Person to use or operate any wooden derrick(s) or any steam-powered rig in connection with the drilling or reworking of any Well, or to permit any derrick or derricks to remain on the premises or drilling site for a period longer than 30 days after completion of abandonment of the Well.

**1.18 Disposal of Salt Water**

Permittee shall make adequate provisions for the disposal of all salt water or other impurities which may be brought to the surface from the depth of the Well. No salt water pits, vats, or other open storage of salt water shall be permitted within the City. All movement of salt water from within or without the City shall be by enclosed lines with no leakage.

**1.19 Drilling Fluid**

All operators shall be required to drill all Wells with mud through the process commonly referred to as muddrilling. Drilling with air and/or gas shall be prohibited.

**1.20 Drill Stem Tests**

It shall be unlawful for any Person to take or to complete any drill stem test or tests except during daylight hours and then only if the Well effluent during the test is produced through an adequate oil and gas separator to storage tanks, and effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the pipe.

**1.21 Fence and Firewall**

Any Person who completes a Well as a producer shall have the obligation to enclose said Well, tank battery and any other surface facilities by a substantially smooth net wire fence sufficiently high and properly built so as to ordinarily keep Persons and animals out of the enclosure. All gates thereto shall be kept locked when the Permittee or employees are not within the enclosure. Tank batteries shall be enclosed by earthen firewalls arranged so that the capacity of the enclosure will be sufficient to contain the full volume of oil in the tanks.

**1.22 Injection Wells**

No water, gas, air or chemicals shall be injected into any oil Well for the purpose of forcing oil out of the producing formation or for any other purpose. In applying for such approval, the Permittee shall include in the application a detailed statement of the method to be used in injecting said water, gas, air or chemicals.

**1.23 Mufflers**

(a) All engines used in the drilling of any Well, derrick or rig shall be equipped with mufflers and approved by the City Council.

(b) Motive power for all operations after completion of drilling operations shall be electric or properly muffled gas or gasoline engines. Such mufflers shall be approved by the City Engineer. All pumping Wells shall be equipped with electric motors.

**1.24 Pits**

All slush pits or other means of storing mud or water for use in drilling or reworking operations shall be constructed, dug or placed at the location and in the manner specified by the State Railroad Commission, or its successor.

**1.25 Signs**

Printed signs reading, "Dangerous, No Smoking Allowed", shall be posted in conspicuous places on each producing unit.

**1.26 Storage Tanks and Pipelines**

All crude oil storage tanks shall be located at the place designated by and in the manner recommended by the State Railroad Commission, or its successor. No oil, gas, salt water or other pipelines shall be installed in the streets, alleys, public ways or on property owned by the City without prior consent of the City Council. Use of such streets, alleys, public ways or municipality owned property for such purpose shall be subject to the terms and conditions imposed by the City Council. The depth and location at which such lines shall be laid shall be specified by the City Councilor its duly designated representative.

**1.27 Tubing**

All tubing used in any Well drilled to a depth of 6,000 feet or less shall be J-55 mill tested to 3,000 psi.

**1.28 Valves and Blow-out Preventers**

Valves and blow-out preventers shall be installed when deemed necessary.

**1.29 Venting, Flaring Of Gas**

No Person engaged in drilling or operating any Well shall permit gas to escape or be vented into the air within the City. Flaring of gas within the City is prohibited.

**1.30 Permit Required**

It shall be unlawful for any Person acting either for himself or herself, or acting as the agent, servant, employee or independent contractor of any other Person to commence to drill or to operate any Well within the City or to work upon or assist in any way in the prosecution or operation of any such

Well without a permit for the drilling and operation of such Well having first been issued by authority of the City Council.

**1.31 Permit Application**

(a) Every application for a permit to drill and operate a Well shall be in writing and signed by the applicant or by some Person duly authorized to sign the same on his or her behalf; which such application shall be filed with the City Secretary. No application shall request a permit to drill and operate more than one Well.

(b) The application shall contain full information, including the following:

(1) date of application;

(2) name and address of applicant;

(3) proposed site of the Well, accompanied by a plat of the Drilling Unit showing the descriptions of the lots, blocks or tracts owned or controlled by the applicant. Such plats shall be prepared by a registered public surveyor of the state;

(4) name(s) of the fee owner(s);

(5) names(s) of the lease owner(s) and a copy of the lease agreement;

(6) a brief description of the land;

(7) type of derrick to be used;

(8) whether the Well shall be drilled as an oil or gas Well;

(9) proposed depth of Well; and

(10) motive power of the rig that is to be used.

(c) The application must contain proof of a valid certification from the State Railroad Commission, or its successor.

**1.32 Permit Fee**

Every application for a permit to drill and operate a Well shall be accompanied by a filing fee of $5,000 in cash.

**1.33 Refusal of Permit Application**

The City Council shall have the authority to refuse any application for a permit when by reason of the location of the proposed Well and the character and value of the permanent improvement already erected on the Drilling Unit in question or adjacent thereto, or the use to which the land and surroundings are adapted for public or civic purposes, or for sanitary reasons, the drilling of an oil or gas Well would be injurious or a disadvantage to the health, safety, morals or welfare of the City or its inhabitants.

**1.34 Permit Issuance**

(a) Within 30 days after the filing of the application for a permit to drill and operate a Well, the City Council shall determine whether the application complies with the provisions of this section and, if it does, shall fix the amount of the principal of the bond required by this section. After such determination, the City Council shall issue a permit for the drilling and operation of the Well described in said permit.

(b) Each permit issued under this section shall:

(1) have incorporated therein by reference all the provisions of this section with the same force and effect as if this section were copied verbatim in said permit;

(2) specify the location of the Well with particularity as to lot number, block number, name of addition or subdivision or other available correct legal description;

(3) specify that the terms of such permit shall be for a period of six months from the date of the permit and for as long thereafter as the Permittee is engaged in contiguous drilling reworking operations, or oil and gas is produced from the Well in commercial quantities. Provided, however, if at any time after discovery of oil or gas the production thereof in commercial quantities shall cease, the term of the permit shall not terminate if the Permittee commences additional reworking operations within six months thereafter, and if such reworking operations result in the production of oil or gas from said Well in commercial quantities;

(4) specify such conditions as are by this section authorized;

(5) specify the total depth to which the Well may be drilled; and

(6) specify that no actual drilling operations shall be commenced until the Permittees shall file and have approved an indemnity bond in the designated principle amount as determined by the City Council.

**1.35 Constitute Contractual Obligations**

Each permit shall be prepared in duplicate originals and shall be signed by the City Secretary and by the Permittee prior to the delivery of such permit to the Permittee. One original shall be retained by the City and the other delivered to the Permittee. When such permit is signed by both parties, it shall constitute the Permittee's drilling and operating license.

**1.36 Refusal of or Withdrawal from Permit; Partial Refund of Fee**

If the permit for the Well shall be refused by the applicant and notifies the City Council in writing that he/she does not elect to accept the permit as tendered and wishes to withdraw the application, or if the bond of the applicant is not approved, or if the applicant notifies the City Council in writing that he or she wishes to withdraw the application, then upon the happening of any said events the cash deposit together with the application shall be returned to the applicant, except that there shall be retained therefrom by the City $100 as a processing fee.

**1.37 Permittee Must Be Leaseholder**

A permit to drill and operate a Well shall be issued only to the holder of a valid oil, gas and mining lease.

**1.38 Permit Nontransferable**

Any permit for the purpose of drilling and operating a Well granted by the City shall not be transferable.

**1.39 Permit Termination**

When a permit to drill and operate a Well is issued, the same shall terminate and become inoperative without action on the part of the City unless within six months from the date of the issuance of such permit actual drilling of the Well designated therein shall have commenced. The cessation for a like period of the drilling or reworking operations, or the cessation of the

production of oil or gas from the Well after production shall have commenced, shall operate to terminate and cancel the permit, and the Well shall be considered as abandoned for all purposes under this section. It shall be unlawful to continue the operation or drilling of such Well without the issuance of another permit.

**1.40 Financial Guarantees - Required**

In the event a permit is issued by the City Council for the drilling and operation of a Well, no actual drilling operations shall be commenced until the Permittee shall file with the City Secretary a bond and a Certificate of Insurance.

**1.41 Financial Guarantees· Bond**

(a) A bond shall be required in the principal sum of such number of dollars as has been determined by the City Council but not less than $25,000 nor more than $1 million. Said bond shall be executed by a reliable surety company authorized to do business in the state, as surety and by the Permittee, as principal, running to the City for the benefit of the City and all Persons concerned, conditioned that the Permittee will comply with the terms and provisions of this section in the drilling and operation of the Well. Said bond shall become effective on or before the date the same is filed with the City Secretary and shall remain in full force and effect for at least six months subsequent to the expiration of the term of the permit issued, and in addition the bond shall be conditioned that the Permittee will promptly payoff all fines, penalties and other assessments imposed upon Permittee by reason of breach of any of the terms, provisions or conditions of this section, and that the Permittee will promptly restore the streets, alleys, sidewalks and other public ways and property of the City which may be disturbed or damaged in the operations to their former condition, and that the Permittee will promptly clear all premises of all litter, trash, waste and other substances used, allowed or occurring in the drilling or producing operations and will, after abandonment, grade, level and restore said property to the same surface condition, as nearly as possible, as existed when operations for the drilling of the Well were first commenced; and that the Permittee will indemnify and hold the City harmless from any and all liability growing out of or attributable to the granting of such permit. If at any time the City Council shall deem any Permittee's bond to be insufficient for any reason, it may require the Permittee to file a new bond.

(b) If, after completion of a Well, the Permittee has complied with all of the provisions of this section such as removing derrick, cleaning premises, et cetera, he may apply to the City Council to have said bond reduced to a sum of not less than $10,000 for the remainder of the time said Well produces without reworking. During reworking operations, the amount of the bond shall be increased to the original amount.

**1.42 Financial Guarantees - Insurance**

(a) The Permittee shall carry a policy or policies of standard comprehensive public liability insurance, including contractual liability covering bodily injuries and property damage, naming the Permittee and the City, with an insurance company authorized to do business in the State of Texas, said policy or policies in the aggregate shall provide for an umbrella coverage of at least $5 million, plus a minimum of $1 million coverage for each accident.

(b) The Permittee shall file with the City Secretary certificates of said insurance and shall obtain the written approval thereof by the City Council, who shall act thereon within 10 days from the date of such filing. Said insurance policy or policies shall not be cancelled without written notice to the City Secretary at least 10 days prior to the effective date of such cancellation. In the event said insurance policy or policies are cancelled, the permit granted shall terminate and Permittee's rights to operate under said permit shall cease until Permittee files additional insurance as provided herein.

(c) If, after completion of a Well, Permittee has complied with all the provisions of this section, such as removing derrick, clearing premises, et cetera, he or she may apply to the City Council to have said insurance policy or policies reduced as follows:

(1) bodily injury - $500,000 one Person; $1 million one accident;

(2) property damage - $1 million.

For the remainder of the time said Well produces without reworking operations. During reworking operations, the amount of the insurance policy or policies shall be increased to the original amounts.

**1.43 Penalty**

Any Person who violates any provisions of this section shall, upon conviction, be subjected to a fine of not more than $2,000 for each offense, unless otherwise specifically set forth in this Code. Each day that such violation is permitted to continue shall constitute a separate offense. The term "Person" as used in this section shall include the owner, occupant, mortgagee or vendor in possession, assignee or rentor, receiver, executor, trustee, or lessee, agent or any other Person, firm or corporation directly, or indirectly, in control of a building or tract of land.

*(Ord. No. 89-2003, adopted 8/12/2003)*

## Article 46 Reserved

## Article 47 CITY PARKS, RECREATION AND SPECIAL EVENTS

**Section 1. Definitions**

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

*City* means the City of Anna, Texas.

*City Council* means the City Council of the City of Anna, Texas.

*City Park* means a park owned or controlled by the City that provides recreational opportunities for the citizens of Anna.

*Park Area* means any building, facility, public improvement, trail, pathway, body of water, parking lot or other grounds or areas within a City Park.

*Parks Board* means the City of Anna Parks and Recreation Advisory Board. NOTE: Notwithstanding any provision of this Article, the Parks Board is solely an advisory body that may make recommendations to the City Council, the approval or rejection of which rest solely with the City Council. The City Council further has discretion to overrule

any recommendation made by the Parks Board that any permit or other request be denied.

*Special Event* means any event that operates wholly or partially within the incorporated city limits of the City of Anna which may require the use of or assistance from the any department or employee of the City, or any other public service department.

**Section 2. General Park Regulations**

**2.01 Park hours**

Hours of general park use shall normally be from one hour before dawn until 11:00 p.m. City Parks shall be open for the public every day of the year during designated hours, except during unusual and/or unforeseen emergencies. City Park hours may be revised by the City Council and the Parks Board may make recommendations in this regard.

**2.02 Swimming, boating, and fishing in parks**

(a) It shall be unlawful for any person to utilize any creek, pond, lake or other body of water in any City Park for swimming or boating, unless such activities are specifically authorized and permitted under this Code or other City regulations or policies.

(b) Electric or gas powered motor boats are unlawful on all bodies of water except by approval from the City Manager or his authorized representative.

(c) Fishing shall be permitted only from the banks of any creek, pond, lake or other body of water in any City Park. No trotlines, throw lines, fish traps or nets shall be permitted. Fish may not be cleaned in any City Park. Fishing is strictly limited to catch-and-release and no fish that are caught may be removed from a City Park.

**2.03 Disruptive behavior; expulsion from City Park property**

(a) It shall be unlawful for any person to willfully interfere with, disrupt, or prevent the orderly conduct of any supervised sporting event, play or amusement program conducted by the City, a duly authorized third party, or any person acting under a duly authorized permit in or on any City Park.

(b) It shall be unlawful for any individual or group of individuals to participate in any activity in or on a City Park when such activity will create a danger to the public or may be considered a public nuisance. It shall be unlawful for any person to remain in any building, swimming pool, playground or other Park Area after being advised by a police officer or other duly authorized representative of the City to leave such premises.

(c) The City Council may designate particular locations within a City Park for specific activities and, when deemed necessary, it may limit the conduct of such activities by the issuance of special permits upon application, which permits will set out the particular conditions under which such activity is permitted. Special Event regulations are set forth in Section 4 of this Article.

(d) Any person charged with violating any rule or regulation regarding City Parks may be expelled from and prohibited from entering City Parks, provided a hearing is held before the Parks Board and the person charged is given reasonable notice of the hearing and the opportunity to present a response to such charges. Upon a finding of grounds for expulsion, a recommendation for expulsion by the Parks Board, and approval of expulsion by the City Council, any person who is expelled from any City Park who enters any City Park during the expulsion period shall be guilty of a misdemeanor and upon conviction shall be fined as hereinafter provided. The expulsion shall be for a length of time as the City Council approves, but shall not exceed 90 days.

(e) A person who has been expelled from a City Park and is expelled again within a two-year period from the date of the expiration of the person's earlier expulsion shall be subject to the same procedure set forth in the foregoing paragraph, except that if the Parks Board and City Council find that a subsequent expulsion is necessary, the expulsion shall be for a length of time not to exceed 180 days.

(f) The City Council's decisions as to expulsions are final.

**2.04 Skating, skateboarding, rollerblading and bicycle riding in parks and on hike-and-bike trails**

Skating, skateboarding, rollerblading and bicycle riding shall be governed by safe riding practices and consideration for use of Park Areas by others. Where special parking provisions have been made for bicycles, parking shall be limited to that area. Skating, skateboarding, rollerblading and bicycle riding shall be prohibited in playgrounds, flower beds, sidewalks other than hike-and-bike trails or display areas, on tennis courts or athletic fields or in picnic pavilions. Skating, skateboarding and rollerblading shall be limited to Park Areas specifically designated for those purposes.

**2.05 Overnight camping**

Overnight camping shall be unlawful except by special permit issued by the Parks Board after approval by the City Council or its designated agent for designated Park Areas. All groups shall observe and obey all park rules and regulations and restore their campsite area to its original condition.

**2.06 Fires**

Fires shall be permitted only in enclosed fireplaces or grills provided for this purpose and otherwise in compliance with this Code. It shall be unlawful to leave any Park Area without extinguishing a fire. After use, coals shall be thoroughly extinguished and cooled. Privately owned charcoal grills are not permitted on grass areas or on picnic tables.

*Cross Reference, Part II, Article 21, Section 3*

**2.07 Unlawful to damage plants in parks or on other recreational facilities**

It shall be unlawful to damage, cut, carve, mark, remove, transplant, break, pick, or in any way injure, damage or deface any plants or turf within or upon any Park Area, parkways, trails, greenbelts or other recreational areas. It shall further be unlawful to introduce any plants into any Park Area, parkway, greenbelt, or other recreational area or facility without prior approval of the Parks Board and as approved by City Council. For the purpose of this section, plants shall be defined to include any vegetation, shrubs, bushes, trees, vines, hedges, grasses, flowers, or the seed thereof.

**2.08 Unlawful to possess or break glass or glass beverage containers and other dangerous objects in designated Park Areas**

It shall be unlawful to possess on the premises of any designated Park Area any glass beverage containers. It shall

also be unlawful to willfully break any glass or glass container in any Park Area.

**2.09 Unlawful to leave child under seven years of age unattended**

It shall be unlawful for a parent, guardian, or other adult having care, custody, and control of a child to abandon or in any way leave unattended a child under seven years of age and not attended by an individual who is 14 years of age or older in any Park Area or recreational facility except during and under the supervision of a supervised program or activity.

**2.10 Abusive or obscene language or acts prohibited**

No person shall use or speak any threatening, abusive, insulting, or indecent language in any City Park, and no person shall commit in any City Park any obscene, lewd, or indecent act or create any nuisance.

**2.11 Animal restraint requirement**

(a) All animals must be on a leash and restrained by the owner within any City Parks and must otherwise be in compliance with the City's Animal Control regulations as applicable.

(b) Owners must clean and dispose of any excrement or waste deposited by the animal within any City Park.

*Cross Reference, Part II, Article 4*

**2.12 Unauthorized sale of goods within park unlawful**

It shall be unlawful for any person not expressly authorized by the City to offer any goods or services for sale within a City Park, parkways, or other recreational facilities, or on public streets and rights-of-way within 300 feet of the boundary of the same, except in commercial areas where property zoned for retail and commercial buildings has a certificate of occupancy for such business purposes or unless a written agreement or permit has been authorized and issued by the City.

**2.13 Firearms, projectile weapons, etc.**

(a) It shall be unlawful for any person to carry a concealed handgun or any other type of firearm in a City Park, except those persons who are duly licensed by the state to carry a concealed handgun in accordance with the provisions of the Texas Government Code Chapter 411, Subchapter H, as amended, the Texas Concealed Weapons Act.

(b) It shall be unlawful for any person to carry or discharge a projectile weapon in a City Park, except upon written approval by the City Council and the fire marshal of the City or its designated representatives upon recommendation by the Parks Board. The term "projectile weapon" includes but is not limited to firearms, fireworks, airguns, bows and arrows, slingshots or any device which would or could project any object which would or could create a fire hazard or any hazard or danger to the public.

(c) The prohibition of the discharge of a projectile weapon set forth in subsection (b) of this section shall not apply to the use of a ball which is not utilized with the intent to harm a person or animal.

*Cross Reference, Part II, Article 21, Section 4; Part II, Article 29, Section 4*

**2.14 Noises interfering with enjoyment of City Parks**

(a) A person commits an offense if he knowingly makes or causes to be made any loud and raucous noise in any City Park.

(b) It is a defense to prosecution under subsection (a) that the person:

(1) is a City employee acting within the scope of his official duties; or

(2) first obtained the written permission of the City Council authorizing a Special Event in which loud noises are a sanctioned part of the event, subject to restrictions under state law.

(c) The following enumerated acts are presumed to create loud and raucous noises for purposes of this section:

(1) the sounding of any horn or signal device on any automobile, motorcycle, bus, or other vehicle, except as a danger signal, as required by state law.

(2) the use of any mechanical loudspeaker or sound amplifier for the purpose of attracting the attention of other persons by the creation of noise.

(3) the playing of any radio, television, tape machine, musical instrument, or other machine, or device for the production or reproduction of sound at such a volume that the sound produced is audible at a distance in excess of 50 feet.

(4) The operation of any automobile, motorcycle, bus, or other vehicle or mechanical device in such a manner so as to produce a sound that is audible at a distance in excess of 50 feet.

*Cross Reference, Part II, Article 29, Section 1*

**2.15 Alcoholic beverages**

The consumption or possession of alcoholic beverages, including, but not limited to, wine, beer, ale and mixed drinks, is prohibited in each and every City Park or while on a public street, sidewalk or parking area adjacent to a public park, unless expressly authorized by the written permission of the City Council authorizing consumption of alcohol in a City Park in connection with an approved Special Event.

**2.16 Liability of the City**

The City shall not be held liable or bound for any loss or damage claimed by reason of the loss or damage to personal property taken or in any way on account of any personal injury of or death to any person entering the premises. The City specifically retains any and all privileges and immunities available to it at law or in equity.

**Section 3. Parking and Traffic Regulations**

**3.01 Traffic permitted only on designated areas**

It shall be unlawful for any unauthorized person to ride, use, or operate any horse, motorcycle, motor scooter, go cart, golf cart, all-terrain vehicle or any other motorized vehicle in or upon Park Area—other than street-legal vehicles in City Park parking lots—with the exception of a City employee acting within the scope of his official duties or as otherwise expressly permitted in writing and in advance by the City Council.

**3.02 Speed of vehicles**

It shall be unlawful for any person to drive any motor vehicle in parking lots at a rate of speed in excess of that which is reasonable and prudent under the conditions and circumstances then prevailing, taking into account the conditions of the roadways and other motor and pedestrian traffic therein, and in no event shall any person drive in or through City Park at a rate of speed in excess of 15 miles per hour unless otherwise posted.

**3.03 Traffic Signs**

It shall be unlawful for any person to fail to comply with the directions of any posted sign within a City Park. The existence of any sign purporting to direct or regulate vehicular or pedestrian traffic shall be prima facie evidence that the same was posted by or at the direction of the City Council.

**3.04 Overnight parking**

No vehicle may be parked overnight in any City Park, except City vehicles or other authorized vehicles or with written approval of the City Council after recommendation by the Parks Board. Vehicles in violation of this subsection may be towed at the owner's expense.

**Section 4. Special Events**

**4.01 Permit required; application; transferability; false statements**

(a) A person commits an offense if he conducts, operates, or causes to be operated a Special Event without first obtaining a permit from the Parks Board as approved by the City Council. A separate permit is required for each Special Event.

(b) Upon receipt of the required fee and completed application form, the Parks Board shall review the proposed event and prescribe specific requirements for the Special Event as approved by the City Council. Once the conditions are established for the event, an agreement shall be executed if approved by the City Council prior to the issuance of a permit.

(c) Each permit application must contain the name, address, and telephone number of the person who will be the permit holder and responsible for the proper operation of the Special Event and payment of fees or charges levied under this article.

(d) A Special Event permit is nontransferable. A permit holder shall inform the parks and recreation department in writing of any changes that alter information listed on the permit application. No fee will be assessed for such changes.

(e) Any false statement or misrepresentation of a material fact made by an applicant or person for the purpose of obtaining a permit shall be sufficient cause for refusal to grant or suspension of a permit.

**4.02 Fee for Special Events permit; duration**

A nonrefundable permit application fee in the amount set forth in Part IV, Article 5, Section 7 of this Code, plus any actual costs incurred by the City of Anna in reviewing such application that exceeds said amount, is required for each permit or renewal of a permit, which shall extend only to those dates requested in the application and which is recommended by the Parks Board and approved by the City Council.

*Cross reference: Part IV, Schedule of Fees, Article V, Section 7*

**4.03 Suspension of permit**

The Parks Board may recommend—and with approval of the City Council—may suspend or refuse to renew a Special Events permit for failure to comply with the Special Events agreement or this section.

**4.04 Special Events agreement**

After approval of a permit, the applicant and the City shall enter into a Special Event agreement incorporating the terms and conditions of said permit, and which, among other terms, will release and hold harmless the City from any liability for the Special Event.

**4.05 Penalty**

Any violation of any of the terms of this ordinance, whether denominated in this ordinance as unlawful or not, shall be deemed a misdemeanor. Any person convicted of any such violation shall be fined in an amount not to exceed $500 for each incidence of violation. Each violation is considered a separate offense and will be punished separately.

*(Ord. No. 410-2008, adopted 10/14/2008)*

## Article 48 PUBLIC INFORMATION

**Section 1. Authority; Purpose**

This Article of the Code is prepared under the authority of the Texas Government Code, Chapter 552, to establish regulations relative to requests made to the City for public information.

**Section 2. Definitions**

The following words and phrases, when used in this article, shall have the meaning ascribed to them by this section or if not defined in this section or other parts of this article shall have that meaning customarily attributed to them.

*City* means City of Anna, Texas.

*Judicial Record* means a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function, regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial record. A record is a document, paper, letter, map, book, tape, photograph, film, recording, or other material, regardless of electronic or physical form, characteristics, or means of transmission.

*(Ord. No. 489-2010, adopted 3/09/2010)*

*Labor Charge* means the statutorily-limited $15/hour charge for locating, compiling, manipulating data, and reproducing public information as to all responses to a request for public information that: (a) exceeds 50 pages; (b) requires the provision of documents from two or more separate buildings that are not physically connected with each other; or (c) requires the provision of documents from a remote storage facility.

*Nonstandard Copy* or *Oversize Copy* means any copy of public information that is made available to a Requestor in any format other than a Standard Paper Copy. Microfiche, microfilm, diskettes, magnetic tapes, CD-ROM are examples of Nonstandard Copies. Paper copies larger than 8 ½ by 14 inches (legal size) are also considered Nonstandard Copies.

for Public Information means the City Secretary.

*(Ord. No. 463-2009, adopted 09/08/09)*

*Overhead Charge* means a charge that covers such costs as depreciation of capital asset, rent, maintenance and repair, utilities, and administrative overhead. The Overhead Charge shall be computed at 20% of the Labor Charge associated with a particular Public Information Request.

*Personnel Charge* means the actual cost to the City of Personnel Time—to the extent such time exceeds the 36-hour limit under Section 4 of this article—expended for locating, compiling, manipulating data, and reproducing public information associated with a particular Public Information Request, said actual cost being calculated by reducing to an hourly rate an employee's annual salary and the value of all other compensation in the form of benefits received by said employee and multiplying said hourly rate by the time actually spent.

*Personnel* means City employees.

*Program Processing* means the execution of a sequence of coded instructions by a computer producing a result.

Programming Labor Charge means a charge for any services of a programmer required in the processing of a Public Information Request while executing an existing program or in creating a new program so that requested information may be accessed and copied.

*Public Information Request* a/k/a "Open Records Request" means a request for public information made in accordance with Texas Government Code, Chapter 552 and in accordance with this Part, as amended.

*(Ord. No. 463-2009, adopted 09/08/09)*

*Requestor* means a person who submits a request to the City for inspection or copies of public information.

*Standard Paper Copy* means a copy of public information that is a printed impression on one side of a piece of paper that measures up to 8 ½ by 14 inches (legal size). Each side of a piece of paper on which information is recorded is counted as a single copy. A piece of paper that has information recorded on both sides is counted as two copies.

**Section 3. Personnel Time**

**3.01 Personnel Charges for Time Spent over 36 Hours**

Personnel Charges shall apply and be imposed on Requestors for time spent by Personnel in locating, compiling manipulating data, and reproducing public information for inspection or duplication by a Requestor or providing copies of public information to a Requestor that is in excess of 36 cumulative hours during a 12-month period, said period to correspond with the fiscal year of the City.

**3.02 Request by a Minor**

In determining whether the time limit established under Section 3.01 above applies, any time spent complying with a request for public information submitted in the name of a minor, as defined by Section 101.003(a), Texas Family Code, is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

**3.03 Exceptions**

This section does not apply if the Requestor is a representative of:

(a) a radio or television station that holds a license issued by the Federal Communications Commission; or

(b) a newspaper that is qualified under Texas Gov't Code Section 2051.044 to publish legal notices or is a free newspaper of general circulation and that is published at least once a week and available and of interest to the general public in connection with the dissemination of news; or is one of the following:

(c) an elected official of the United States, this state, or a political subdivision of this state; or

(d) a representative of a publicly funded legal services organization that is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as amended, by being listed as an exempt entity under Section 501(c)(3) of that code.

**Section 4. Statement of Time Spent**

Each time the City complies with a request for public information, the City shall provide the Requestor with a written statement of the amount of Personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that Requestor during the applicable 12-month period. (The amount of time spent preparing the written statement is not chargeable and is not included in the amount of time included in the statement provided to the Requestor under this subsection.)

**Section 5. Statement of Estimated Costs**

**5.01 Estimate Required**

(a) Before complying with a Public Information Request, the City shall provide a statement of estimated costs if:

  (1) the City intends to impose a Personnel Charge;

  (2) copies made to comply with the request will exceed 50 pages;

  (3) the Public Information Request requires the provision of documents from two or more separate buildings that are not physically connected with each other;

  (4) the Public Information Request requires the provision of documents from a remote storage facility; or

  (5) the estimated charges for complying with a Public Information Request exceed $40.00.

(b) If the City intends to seek payment from a Requestor for a Personnel Charge, a statement of estimated costs for such Personnel Charge(s) shall be provided to the Requestor on or before the 10th day after the date on which the public information request was received by the City. If the City does not intend to seek payment from a Requestor for a Personnel Charge, the City shall endeavor to provide a Requestor a statement of estimated costs otherwise required under this section as soon as reasonably practical, but in no event shall the City charge a Requestor in excess of $40 if the City does not provide an estimate of costs.

*(Ord. No. 434-2009, adopted 2/24/09)*

**5.02 Content of Statement of Estimated Costs**

(a) A Statement of estimated costs provided under this section must include:

(1) the itemized estimated charges, including any allowable charges for labor, overhead, copies, Personnel time, programming time, etc.;

(2) whether a less costly or no-cost way of viewing the information is available;

(3) a statement that the Requestor must provide the City with mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the Requestor's choice which type of address to provide; and

(4) a statement that the Requestor must respond in writing by mail, in person, by facsimile or by electronic mail to the City Secretary in response to the Statement of estimated costs.

(b) A statement of estimated costs provided under this section must also include as an attachment a copy of the current version of Texas Government Code §552.2615. A copy of §552.2615, current at the time of adoption of this article, is attached hereto as Exhibit A and incorporated herein as if set forth in full.

**EXHIBIT A**

V.T.C.A., Government Code § 552.2615

**§ 552.2615. Required Itemized Estimate of Charges**

(a) If a request for a copy of public information will result in the imposition of a charge under this subchapter that exceeds $40, or a request to inspect a paper record will result in the imposition of a charge under Section 552.271 that exceeds $40, the governmental body shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the governmental body regarding the alternative method. The governmental body must inform the requestor of the responsibilities imposed on the requestor by this section and of the rights granted by this entire section and give the requestor the information needed to respond, including:

(1) that the requestor must provide the governmental body with a mailing, facsimile transmission, or electronic mail address to receive the itemized statement and that it is the requestor's choice which type of address to provide;

(2) that the request is considered automatically withdrawn if the requestor does not respond in writing to the itemized statement and any updated itemized statement in the time and manner required by this section; and

(3) that the requestor may respond to the statement by delivering the written response to the governmental body by mail, in person, by facsimile transmission if the governmental body is capable of receiving documents transmitted in that manner, or by electronic mail if the governmental body has an electronic mail address.

(b) A request described by Subsection (a) is considered to have been withdrawn by the requestor if the requestor does not respond in writing to the itemized statement by informing the governmental body within 10 business days after the date the statement is sent to the requestor that:

(1) the requestor will accept the estimated charges;

(2) the requestor is modifying the request in response to the itemized statement; or

(3) the requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

(c) If the governmental body later determines, but before it makes the copy or the paper record available, that the estimated charges will exceed the charges detailed in the written itemized statement by 20 percent or more, the governmental body shall send to the requestor a written updated itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If the requestor does not respond in writing to the updated estimate in the time and manner described by Subsection (b), the request is considered to have been withdrawn by the requestor.

(d) If the actual charges that a governmental body imposes for a copy of public information, or for inspecting a paper record under Section 552.271, exceeds $40, the charges may not exceed:

(1) the amount estimated in the updated itemized statement; or

(2) if an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the itemized statement.

(e) An itemized statement or updated itemized statement is considered to have been sent by the governmental body to the requestor on the date that:

(1) the statement is delivered to the requestor in person;

(2) the governmental body deposits the properly addressed statement in the United States mail; or

(3) the governmental body transmits the properly addressed statement by electronic mail or facsimile transmission, if the requestor agrees to receive the statement by electronic mail or facsimile transmission, as applicable.

(f) A requestor is considered to have responded to the itemized statement or the updated itemized statement on the date that:

(1) the response is delivered to the governmental body in person;

(2) the requestor deposits the properly addressed response in the United States mail; or

(3) the requestor transmits the properly addressed response to the governmental body by electronic mail or facsimile transmission.

(g) The time deadlines imposed by this section do not

affect the application of a time deadline imposed on a governmental body under Subchapter G.

**Section 6. Procedures for Certain Charges and Methodology of Calculations**

**6.01 Labor Charges**

(a) Labor Charges will be applied to any Public Information Request that:

(1) exceeds 50 pages in length;

(2) requires the provision of documents from two or more separate buildings that are not physically connected with each other; or

(3) requires the provision of documents from a remote storage facility.

(b) Labor Charges may not exceed $15.00/hour.

(c) Labor Charges may not be charged to the Requestor for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

(1) to determine whether the City will raise any exceptions to disclosure of the requested information under the Texas Government Code, Subchapter C, Chapter 552; or

(2) to research or prepare a request for a ruling by the attorney general's office pursuant to §552.301 of the Texas Government Code.

(d) When confidential information pursuant to a mandatory exception of the Public Information Act is mixed with public information in the same page, a Labor Charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A Labor Charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies for a Labor Charge pursuant to Texas Government Code, §552.261(a)(1) or (2).

(e) Labor Charges may not be imposed to the extent that Personnel Charges are imposed.

**6.02 Programming Labor Charges**

If a Public Information Request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the City may charge for the programmer's time as a Programming Labor Charge in accordance with state law and rules of the Attorney General.

**6.03 Personnel Charges**

Personnel Charges are calculated at an hourly rate for time spent by Personnel in locating, compiling, manipulating data, and reproducing public information for inspection or duplication by a Requestor or providing copies of public information to a Requestor that is in excess of 36 cumulative hours in a 12-month period, said period to correspond with the fiscal year of the City. When Personnel Charges are applicable, the charge is calculated by determining the sum total of the actual cost of all employees' time spent on a Public Information Request. Whenever Personnel Charges are imposed, Labor Charges may not be imposed.

**Section 7. Charges for copies, Nonstandard Copies and other materials**

(a) In addition to charging $.10 per paper copy for standard copies, the following charges shall apply with regard to all Public Information Requests:

(1) Nonstandard Copies

(i) Diskette - $1.00;

(ii) Magnetic tape – Actual Cost;

(iii) Data cartridge – Actual Cost;

(iv) Tape cartridge – Actual Cost;

(v) Rewritable CD (CD-RW) - $1.00;

(vi) Non-rewritable CD (CD-R) - $1.00;

(vii) Digital video disc (DVD) - $3.00;

(viii) JAZ drive – Actual Cost;

(ix) Other electronic media – Actual Cost;

(x) VHS video cassette - $2.50;

(xi) Audio cassette - $1.00;

(xii) Oversized Copy (e.g., 11 inches by 17 inches, greenbar, bluebar, not including maps and photographs using specialty paper) - $.50; and/or

(xiii) Specialty paper – Actual Cost.

(b) Charges for Nonstandard Copies or Oversized Copies are applicable to all Public Information Requests, regardless of the number of pages or the time involved in the response to the Public Information Request.

(c) Microfiche and microfilm charge:

(1) If the City already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the microfiche or microfilm can be released in its entirety, the City may make a copy of the microfiche or microfilm. The charge for a copy shall not exceed the cost of its reproduction.

(2) If only a master copy of information in microfilm is maintained, the charge is $.10 per page for Standard Paper Copies, plus any applicable Labor and Overhead Charge for more than 50 copies.

(d) Remote document retrieval – if the City has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional Labor Charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the City, the materials must still be searched for records that are responsive to the request, the City may charge for such search in accordance with this article.

(e) Computer resource charge:

(1) mainframe--$10 per CPU minute;

(2) Midsize--$1.50 per CPU minute;

(3) Client/Server system--$2.20 per clock hour; and

(4) PC or LAN--$1.00 per clock hour.

(f) Miscellaneous supplies. The Actual Cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

(g) Postal and shipping charges. The City may add any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party.

(h) Miscellaneous charges. If the City accepts payment by credit card for copies of public information and is charged a "transaction fee" by the credit card company, the City may recover that fee from the Requestor.

**Section 8. Requirements for Submitting a Public Information Request**

(a) In order to be considered valid and treated as a Public Information Request, a request must:

(1) be addressed conspicuously to attention of and delivered only to the Officer for Public Information at a mailing address, physical address, email address, or facsimile number provided by the Officer for Public Information;

(2) be in writing, state that it is a request for public information, and state the requestor's name, mailing address, telephone number, and all additional information necessary to allow a response to be sent to a particular place or address; and

(3) include a description of the information requested that is sufficiently specific to enable the City to accurately identify and locate any information that may be responsive to the request.

(b) A Public Information Request may be delivered by hand, mail, facsimile, email or private courier or commercial service.

(c) Any email or facsimile submission addressed or delivered to any person other than the Officer for Public Information shall not be considered a Public Information Request.

(Ord. No. 463-2009, adopted 09/08/09) (Ord. No. 489-2010, adopted 3/09/2010)

**Section 9. Implementation**

The Officer for Public Information, or a person designated by the Officer for Public Information, shall implement, the provisions of this article.

*(Ord. No. 463-2009, adopted 09/08/09)*

**Section 10. Judicial Records Not Covered Under This Article**

Judicial Records are not covered by the Public Information Act or the Public Information regulations enacted by the City. Judicial Records shall not be disclosed in response to a request for public information. A public information request for judicial records shall be returned to the requestor. A request for Judicial Records may be sent to the municipal court that maintains such record and such requests be governed by the regulations adopted by such court.

*(Ord. No. 489-2010, adopted 03/09/2010)*

## Article 49 PUBLIC WORKS

**Section 1. In General**

**1.01 Definition**

For the purpose of this Article the word *Utility* shall be construed to mean and include water, sanitary sewer, garbage and refuse collection and/or any other Utility service furnished by the City or its duly authorized contractors to consumers thereof. The word Customer shall be construed to mean and include a Person that has a Utility account with the City. The word Consumer shall be construed to mean and include any Person that may consume or otherwise utilize a utility service provided by the City. The word *Person* shall be construed to mean and include any individual and also includes any corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership association, or other legal entity.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.02 Scope of Provisions**

All pertinent provisions of this Article are hereby made part of the terms and conditions whereby the City furnishes any Utility service to any Person, or whereby the City makes any Utility connections, or performs any work of any kind in connection with the furnishing of any Utility service pursuant to the rules and regulations of the City Council. Persons who apply for, who have received, or who are receiving Utility services from the City are deemed to have fully read and understood all applicable City ordinances including but not limited to this Article and Article 7 of Anna Code, Part IV Schedule of Fees, all as amended, and agree to abide by all of the regulations conditions and obligations set forth in said Articles.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.03 Service to Comply with Technical Provisions**

Any Utility service furnished under the provisions of this Article shall be in accordance with and in compliance with all applicable technical provisions of this Article, other City Ordinances, adopted City Codes, other rules and regulations, State and Federal Law.

**1.04 Rules, Regulations**

The Public Works Director shall have the authority to establish by rule or regulation such standards and specifications as may be deemed necessary for the installation, construction and maintenance of any Utility service system owned and operated by the City within or without the City and under the management of the City Council. Such rules, regulations, standards and specifications shall be approved and adopted by the City Council and filed in the office of the City Secretary. Violation of such rules, regulations, standards and specifications shall be deemed a misdemeanor.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.05 Enforcement**

Except where other arrangements are specifically provided, it shall be the duty of the Public Works Director or his authorized agent to enforce the provisions of this Article or any rule or regulation relating to Utility services. This Article does not prevent law enforcement officers or code enforcement officers from enforcing provisions of this Article.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.06 Inspection**

In order to protect the Utility service supply, the City will not make any water or sewer taps until the premises involved has been inspected and approved by the Public Works Director or Building Official/Inspector.

**1.07 Right of Entry**

Any authorized inspector of the City or authorized public works employee shall have free access at any reasonable time to all premises supplied with any Utility service by the City for the purpose of examination in order to protect the Utility services.

**1.08 Termination of Service Authorized**

(a) The City shall have the right to disconnect or refuse to connect or reconnect any Utility service for any lawful reason, including but not limited to:

(1) failure to meet the applicable provisions of law;

(2) violation of the rules and regulations pertaining to Utility service;

(3) nonpayment of bills;

(4) willful or negligent waste of service due to improper or imperfect pipes, yard lines, clean outs, fixtures, appliances or otherwise;

(5) molesting any meter, seal or other equipment controlling or regulating the supplies of Utility services;

(6) theft or diversion and/or use of service without payment therefore;

(7) refusal to allow inspection of property provided with Utility services;

(8) vacancy of premises.

(b) Affected Customers will be notified of pending termination of services in accordance with the provisions of this Article. It is the policy of the City to provide Customers with notice and a meaningful opportunity to be heard on disputed issues regarding nonpayment or insufficient payment before termination of services. Any Customer disputing the correctness of a bill for services has a right to a hearing at which time the Customer may be represented in person and by legal counsel or any other Person of the Customer's choosing and may present orally or in writing such complaint and contentions to the Public Works Director. The Public Works Director shall have the authority to make a final determination of the Customer's complaint.

(c) Emergency termination of services by the City may occur without notice or hearing in instances where it is apparent that such termination of services is necessary to avoid imminent harm to Persons or property. In such event, notice and an opportunity for hearing will be provided as soon practicable after such termination.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.09 Liability of City for Damage**

The City shall not be liable for any damage to any Person of any Utility service furnished by the City due to back-flow of the sewage system, failure of supply, interruption of service or any other cause outside the direct control of the City. This provision is not intended to and does not in any way waive the City's governmental immunity from suit or liability.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.10 Utility Service - Application Required**

Any Person desiring any Utility service to be furnished to a premises by the City shall submit a written application on City-supplied forms to the Public Works Director or the Utility Department of the City. Such application shall contain the applicant's name, address, and other information as required by the City. The Person applying for Utility service must also supply sufficient documentation to establish the true identity of the applicant. The application must state the uses for which such Utility service is desired. Should any Person move into any premises supplied with Utility service, without making an application in the manner provided for by the City, such Person shall become responsible to pay for all unpaid usage fees, late fees, fines and interest related to Utility usage at said premises. The failure to pay said unpaid amounts in full within 15 days of delivery of notice of same shall be cause for disconnecting such service until the amount due is paid.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.11 Utility Service - False Statements in Application**

(a) If any Person shall make false statements in the application for Utility services, he shall be deemed guilty of a Class C misdemeanor.

(b) Any Customer who discontinues his place of business or moves from his residence and leaves a bill for Utility services due the City and makes application for service at some other address, either under his own name or under a different name, without stating to the City the old address and name under which Utility services were used at the address where there is a bill due, shall be deemed guilty of a Class C misdemeanor.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.12 Utility Service - Not Available to Debtors**

The City may decline or fail or cease to furnish Utility service to any Person who may be in debt to the City for any Utility service provided by the City or contracted by the City.

**1.13 Utility Service - Permit**

Approval of the application for any Utility service by the Public Works Director shall be deemed permission for such service.

**1.14 Utility Service - Use Assumed**

All premises connected to any Utility service of the City shall be *assumed* to be using such Utility service and the owner or occupant shall be charged so long as such premises shall remain connected with the Utility service.

*(Ord. No. 112-2003, adopted 11/12/2003)*

**1.15 Returned Checks**

A return-check charge will be assessed to any Person who issues a check to the City that is returned to the City or not honored by the financial institution on which it is drawn for any reason. This charge may be assessed against the Utility account to which the attempted payment was made. The

amount of the return-check charge shall be as set forth in Anna Code, Part IV, Schedule of Fees, Article 7, Section 12.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.16 Not to Use Contrary To Permit**

Any Person having a permit from the City for the use of any Utility service offered by the City who shall use such Utility service for any purpose other than mentioned in such permit or who shall make any unauthorized changes in such service shall be deemed guilty of a Class C misdemeanor.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.17 Tampering, Damage, Trespass of Equipment**

It shall be unlawful for any Person, not having authority to do so, to open any water hydrant or tamper with any Utility services *furnished* by the City, or to in any other way molest, damage, or trespass upon any equipment or premises belonging to the City connected with any Utility service.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.18 Temporary Interruption of Service**

The City reserves the right to cut off any Utility service without notice in case of emergencies. When an interruption in utility service is necessary for the maintenance and improvement of the Utility system, affected Customers will be notified as circumstances permit.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.19 Restricting Use**

The City hereby reserves the right to at any time restrict or prevent the use of any Utility service furnished by the City during periods of emergency or circumstances demanding such restriction or prevention of use.

**1.20 Resale of Service**

It shall be unlawful for any Person to resell to others any Utility service provided by or obtained from the City unless by special arrangement with the City Council.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.21 Connection to Service**

Connections for any Utility service furnished by the City shall be made only under the supervision of the City Council.

**1.22 Separate Connections**

Every building, structure or Customer in the City shall have a separate Utility service connection. Accessory use buildings on a residential lot do not require a separate meter if not occupied or used for commercial purposes.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.23 Unlawful Use**

No Person, other than employees of the City, shall be authorized to connect, turn on, turn off or disconnect any Utility service offered by the City, or remove, replace or repair any City equipment connected to any such Utility service. No Person shall tamper with, alter, change, bypass, divert, or connect to any water or sewer mains or service lines owned by the City without first obtaining permission or consent of the City. Any Person violating provisions of this Article shall be deemed guilty of a Class C misdemeanor.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.24 Maintenance of System by Customer**

(a) The consumer of any Utility service furnished by the City shall maintain and keep in good repair all connections, yard lines, clean outs, appliances and other apparatus installed and used in connection with such Utility service.

(b) Failure to maintain and keep in good repair all connections, yard lines, clean outs, appliances and other apparatus used in connection with the Utility service is a violation of this Article and grounds for discontinuation of all Utility services to the Customer.

*(Ord. No. 476-2009, adopted 11-10-09)*

**1.25 Services Outside City Limits Not Required**

The City is not required to furnish Utility services to Persons beyond the City's corporate limits, or to continue to supply such Utility service once begun. The City reserves the right to provide Utility services to such Persons it deems advisable and to, at any time, wholly or partially, discontinue such Utility services to any Persons located outside the corporate limits of the City.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**1.26 Adoption of North Central Texas Standard Specifications for Public Works Construction**

(a) The Standard Specifications for Public Works Construction, Fourth Edition as adopted and published by the North Central Texas Council of Governments, a copy of which is on file in the office of the City Secretary, is hereby adopted by reference and designated as the Standard Specifications of the City of Anna, the same as though such specifications were copied at length herein.

(b) The Standard Specifications for Public Works Construction as adopted is amended by the City of Anna Addendum to the North Central Texas Council of Governments Standard Specifications for Public Works Construction, a copy of which amendments are on file in the office of the City Secretary, such amendments being hereby adopted by reference and designated as the Standard Specifications of the City of Anna, the same as though such specifications were copied at length herein.

(c) The City of Anna Construction General Notes is hereby adopted and incorporated herein as if set forth in full; a copy thereof is available in its entirety at the office of the City Secretary at the City of Anna during regular business hours.

(Ord. No. 62-2003, adopted 3/11/2003)(Ord. No. 476-2009, adopted 11-10-09)

**1.27 Penalties for Violations**

A violation by any Person of any provision of this Article is a Class C misdemeanor, and the offender, upon conviction thereof shall be fined any sum not exceeding the lesser amount of $2,000 or the maximum amount allowed by applicable law. Each continuing day of such violation shall constitute a separate offense. The penal provisions imposed under this Article shall not preclude the City of Anna from filing suit to enjoin the violation. The City of Anna retains all legal rights and remedies available to it pursuant to local, state and federal law and all available equitable remedies.

*(Ord. No. 476-2009, adopted 11-10-09)*

**Section 2. Water Utilities**

**2.01 General Regulations**

(a) The City is not required to furnish water of any special or specific analysis or in any special or specified amount but only undertakes to furnish such water and amount of water that may be supplied from such sources as the City may select and in an amount within the capacity of the City's pumping plants and storage facilities.

(b) If an accident impedes the City's ability to supply water to its Customers or to the municipality for the prevention or suppression of fire, the City will not be liable for damages by reason of any such failure to any Customer of the water system or to any Person or Persons whose property may have been destroyed by fire or otherwise damaged.

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.02 Out of City Water Service**

If any Person located outside the City limits desires City water service and pays all expenses incurred in extending the water mains necessary to properly connect to the City's water system and secures all necessary easements and dedicates same to the City perpetually, so that the City incurs no expense in such connection, and the City elects to provide water service to such Person, and provided further that all mains, lines, and associated appurtenances installed meet the requirements and approval of the Public Works Director based on requirements or criteria set forth by City ordinance or other City regulations, then such Person shall be furnished water at the rate set forth in Anna Code Part IV, Schedule of Fees, Article 7, Section 8(c) or (d) as applicable. Water utility-line extensions for water service outside of City limits shall be governed by Anna Code Part II, Article 49, Section 5.

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.03 Waste of Water**

It shall be unlawful for any Person to willfully and unreasonably waste water and in cases of willful or unreasonable waste of water that creates a clear and present threat to the City's water supply or to persons or property, *the* City shall have the right to take emergency action to halt such waste, including but not limited to stopping the flow of water and shall further have the right to recover all damages. Such action of stopping the flow of water may be taken by the Public Works Director at any time when such clear and present threat exists, and such threat cannot be addressed by other less restrictive measures. In the event of such action by the Director of Public Works, the affected Customer will be provided with notice and an opportunity to be heard under the rules that would otherwise apply under this Article for pre-termination hearings.

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.04 Regulations Affecting Connections to System**

All connections to the City waterworks system within the corporate limits shall be made in the following manner:

(a) It shall be the policy of the City to supply water to its Customers through mains owned or controlled by the City and which shall be located in the streets, between the curbs and sidewalk lines, or in alleys adjacent to property being served, or on easements controlled or owned by the City. The water meter will be placed at the edge of the Customer's property nearest to the City water main or where approved by the Public Works Director and the Customer shall be responsible for the maintenance of the service line and all other plumbing, materials and equipment through which water flows starting at the point where the water leaves the City meter. Any service line that crosses private property not owned by the property owner requesting water service must be located in an easement acquired by the property owner and said easement must be filed at the property owner's expense in the deed records of the county where the easement is located and Anna City Hall.

(b) the City may assess the estimated cost of breaking and replacing pavement necessary to make such connections, in addition to the regular service connection fee and minimum system connection fee, such assessment to be paid with such service fee and system fee, and the difference between assessment and actual cost of such breaking and replacing shall be billed or refunded to the Customer when such work has been completed.

(c) in addition to the above charges, the City may assess the estimated cost of boring under or crossing over any street or highway in furnishing water services.

(d) all lines constructed on the City side of the meter and meters installed under the provisions of this section shall be the property of the City and the City shall have full control and jurisdiction over such lines and meters.

*(Ord. No. 2003-112, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**2.05 Meters Generally**

Meters for the measurement of utility services shall be furnished and installed by and shall remain the property of the City. All Customers shall be responsible for any damages to their water meter(s) and/or connections, any equipment used to lock the meter on or off, any water stops and meter boxes. All Customers shall be required to pay to the City the actual expense for necessary repair to same before the utility service is reconnected.

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.06 Rereading Meters**

Any municipal utility meter shall be reread upon complaint of the Customer and when the meter is found to have been correctly read originally, the complaining Customer shall pay a fee in the amount set forth in Anna Code, Part IV, Article 7, Section 7. Any municipal water meter shall be taken out and tested upon request of the Customer and if, upon test, the meter is not within 3% of being accurate, it shall be repaired or replaced and the water bill adjusted appropriately up to a maximum of three months. If upon test the meter is found to be within 3% of accuracy the Customer shall pay a fee of in the amount set forth in Anna Code Part IV, Article 7, Section 7.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**2.07 Installation, Use and Moving of Meters**

(a) Meter Installation and Removal

The City will set a meter at the premises of each Customer who has made the required deposit for the registration of water used by such Customer, one meter per household. The City will supply water only through its own meter and

must be notified when the Customer desires to have water service or to have a meter relocated or removed.

*(Ord. No. 98-14, adopted 10/27/1998) (Ord. No. 476-2009, adopted 11-10-09)*

**2.08 Reserved**

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.09 Bypassing Meters**

No Person shall interfere with or bypass the City's meter in such a manner as to obtain water without the full amount thereof being registered on such meter. Service shall be permanently disconnected from any account where a bypass or other such device is discovered. Such account shall be reconnected only at the discretion of the City and only after payment for water used, as estimated by the City, at twice the rate otherwise applicable plus the cost of rerouting and repairing the service to register water used properly on the meter.

**2.10 Access to Meter**

If easy access to a meter is obstructed by a Customer or if entrance to the premises is made dangerous for whatever reason, thereby preventing a meter reader from obtaining a meter reading, the charges may be estimated for the amount not to exceed double the normal charge. If the Customer does not remedy the condition or should the Customer refuse to pay the estimated bill, the City shall have the right to discontinue water service without further notice and service shall not be resumed until the obstructive and/or dangerous conditions have been remedied and all charges for water service paid. Water meters located on private property may be moved to public right of way and the Customer shall install the service line to connect to the new meter at the Customer's expense.

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.11 Secondary Taps and Dual Connections Prohibited**

No Customer of the water system shall permit any Person to tap any water pipe leading into his premises without the consent of the City Council. Dual connections to (more than one user on a single meter) shall be prohibited. Owners or occupants of premises having service pipes and connections will be held strictly responsible for all uses of water from such service by other parties.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**2.12 Fire hydrant use restricted**

Every hydrant placed for the purpose of extinguishing fires is hereby declared to be a public hydrant and no Person, other than members of the fire department, the State Department of Health, and those authorized by the Public Works Director shall open any such hydrant or draw or attempt to draw water from same or in any manner interfere with said hydrants unless they have a valid permit from the Public Works Director, make the appropriate deposit to the City, and a water meter is used to determine the amount of water used.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**2.13 Tampering with Fire Hydrants Prohibited**

It is unlawful to turn on or otherwise tamper with any City fire hydrant except for the purpose of extinguishing a fire.

*(Ord. No. 98-14, adopted 10/27/1998)*

**2.14 Fire Hydrant Meter Deposit**

A Customer desiring to use a fire hydrant meter shall pay a deposit to the City of Anna at the time of application for connection as security for payment of bills for water service and/or damage to and/or loss of City facilities. The deposit shall be retained by the City until the Customer is disconnected from the City's facilities and has returned the fire hydrant meter undamaged. The amount of the deposit shall be as shown in Anna Code, Part IV, Schedule of Fees, Article 7, Section 4.

*(Ord. No. 52-2003, adopted 1/28/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**2.15 Unlawful Connections**

(a) If water from the City water supply system or water from a certificated water supply corporation is available within 200 feet of the property line on which a privately owned water Well within the City limits of Anna is located, such privately owned water well may be used for irrigation or farming purposes only.

(b) No water connection from the City water supply system shall be made to any other water system over which the City of Anna has no control. The City shall have the right to inspect individual water facilities prior to providing service and periodically thereafter to prevent possible cross-connections between the water system of the City of Anna and any other water system. Upon discovery by the City of a cross-connection, the City shall give notice to the owner or agent maintaining such condition, and such owner or agent shall immediately make such corrections as are necessary to eliminate the condition complained of. The City reserves the right to suspend utility service if the owner or agent fails to make such corrections.

*(Ord. No. 476-2009, adopted 11-10-09)*

**2.16 Prohibiting Potential Pollution of Public Water Supply Wells**

(a) Within 50 feet of a public water supply well owned by the City, there shall not be placed, installed or established by any Person:

(1) a tile or concrete sanitary sewer;

(2) sewerage appurtenances;

(3) septic tank;

(4) Storm Sewer;

(5) cemetery;

(6) livestock in pastures; or,

(7) sanitary or Storm Sewers not constructed of ductile iron or PVC pipe meeting AWWA standards, not having a minimum working pressure of 150 psi or greater, and not equipped with pressure type joints.

(b) Within 150 feet of a public water supply well owned by the City, there shall not be placed, installed, or established by any Person:

(1) a septic tank perforated drainfleld;

(2) areas irrigated by low dosage sewage disposal systems;

(3) low angle spray on-site sewage facilities;

(4) absorption bed;

(5) evapotranspiration bed;

(6) improperly constructed water well;

(7) underground petroleum storage tank;

(8) underground chemical storage tank; or,

(9) petroleum or chemical liquid transmission pipeline.

(c) Within 300 feet of a public water supply well owned by the City, there shall not be placed, installed, or established by any Person:

(1) a sewage wet well;

(2) a sewage pumping station; or,

(3) a drainage ditch that contains Industrial Waste discharges or the Wastes from sewage treatment systems.

(d) Within 500 feet of a public water supply well owned by the City, there shall not be placed, installed, or established by any Person:

(1) a sewage treatment plant;

(2) animal feed lot;

(3) solid waste disposal site;

(4) lands on which sewage plant of septic tank sludge is applied; or,

(5) lands irrigated by sewage treatment plant effluent.

*(Ord. No.229-2005, adopted 10/11/2005) (Ord. No. 476-2009, adopted 11-10-09)*

**2.17 Well Drilling**

(a) Permit Required

No Person shall drill a well for water within the City limits without having first obtained a permit from the City Secretary as approved by the City Council.

(b) An application for permit shall be filed with the City Secretary and shall contain the following Information:

(1) name of owner of the premises;

(2) type of pump to be used;

(3) what buildings, if any, are to be constructed;

(4) cost of the proposed improvements; and

(5) a scaled plat of the premises, which shall show:

(i) the exact location of the proposed well;

(ii) the courses of all water lines to be operated for such supply; and

(iii) the location of all lines carrying water from the municipal water system.

(c) A permit fee shall accompany each application and surety bond issued by a corporate surety indemnifying the City from any and all liability resulting from the construction and use of said water well as filed and shown in Anna Code, Part IV, Schedule of Fees, Article 7, Section 13.

(d) Issuance of Permit to be Determined by Building Inspector. If the building inspector determines that the application and the proposed well complies with this Code and all applicable City regulations, he shall recommend the issuance of a permit. *(Ord. No. 476-2009, adopted 11-10-09)*

**2.18 Private Lines**

(a) Private lines not to be connected to public lines. Water lines connected to a private source of supply shall not be installed to connect with water lines supplying water from municipal water systems.

(b) All private lines shall be inspected before covered. Water lines connected to a private source of supply shall not be covered or concealed until the same shall have been inspected and accepted by the City Inspector.

*(Ord. No. 1998-14, adopted 10/27/1998) (Ord. No. 476-2009, adopted 11-10-09)*

**Section 3. Sewer Utilities**

**3.01 Definitions**

The sanitary sewer system of the City consists of main and lateral conduits of salt glazed vitrified earthenware, polyvinylchloride (PVC) plastic, concrete, or other similar pipe, with necessary accessories, and is designed to transport liquid waste materials. The sewers in the alleys or streets adjacent to the various lots are called main or lateral sewers. The sewers leading from the main or lateral sewers to the property on each side are called house sewers (service lines).

**3.02 Sewer Service Required; Exceptions**

(a) It shall be unlawful for the owner or occupant of any building or premises within the City to inhabit, use, or permit anyone else to inhabit or use, said building or premises unless said building or premises is connected with the sanitary sewer system of the City or a septic tank system built according to the specifications of the Texas Commission on Environmental Quality and the City.

(b) It shall be unlawful for any Person to install or use a septic tank for private waste disposal within the City limits, except when the structure to be served is more than 150 feet from a Public Sewer main line, that is reasonably accessible, and approval to use a septic tank is specifically granted by the City Council.

(c) The owner of any property containing a structure used for human occupancy, employment, recreation, or other purpose in which human waste is generated shall be required to connect to the City sanitary sewer system if a Public Sewer is available and reasonably accessible within 150 feet of such structure.

*(Ord. No. 476-2009, adopted 11-10-09)*

**3.03 Service Connections**

(a) After paying all required fees, the property owner shall install a sanitary sewer service line at his expense to the City's lateral, in accordance with regulations and subject to the inspection of the City; he shall thereafter maintain the service line to and including the tap (or the "y"). Any new or rebuilt service line that crosses private property not owned by the property owner requesting sewer service, must be located in an easement acquired by the property owner and said easement must be filed at the property owners expense in the deed records of the county were the easement is located and at Anna City Hall. The sanitary sewer service line from the building to the lateral

or main must pass a standing water test for approval and must remain sealed at all time. All clean outs must be sealed except when being use to clean out a sewer line.

(b) The City may assess the estimated cost of breaking and replacing pavement necessary to make such connections or repairs, in addition to the minimum system connection fee, such assessment to be paid with such system fee, and the difference between assessment and actual cost of such breaking and replacing shall be billed or refunded to the Customer when such work has been completed.

(c) In addition to the above charges, the City may assess the estimated cost of boring under or crossing over any street or highway in furnishing sewer services.

*(Ord. No. 476-2009, adopted 11-10-09)*

**3.04 Septic Tank Requirements**

Any septic tank shall be installed in compliance with the provisions of the most recent edition of the "Construction Standards for On-Site Sewage Facilities" as published by the Texas *Commission* on Environmental Quality. All Septic systems in the City of Anna will be Anaerobic unless specifically approved by the Public Works Director

**3.05 Stoppage or Obstruction of Sewer System**

(a) It shall be unlawful for any Person to deposit into the building drainage system or sewer any ashes, cinders, rags, poisonous or explosive liquids, gases, oils, grease, or any other material which would or could obstruct, damage, or Overload such system or sewer.

(b) It shall be unlawful for the owner or occupant of any building or premises to use, or permit anyone else to use, said building or premises unless said building or premises shall be connected to a water supply sufficient to insure that sewer pipes will be kept free from accumulation of select materials and obstructions.

**3.06 Infiltration of Rain or Ground Water**

(a) It shall be unlawful for any Person to allow rain or ground water to enter house sewers by any means, including but not limited to, any yard line, clean outs and gutter drains. If after notice by the Public Works Director, or his agent, such condition is not remedied within 10 days, water service to the Customer may be disconnected.

*(Ord. No. 476-2009, adopted 11-10-09)*

**3.07 Cesspools Prohibited**

It shall be unlawful for any Person to dig or install any cesspool within the City or repair any existing cesspool.

*NOTE: See also Industrial Wastes, Section 4, below*

**3.075 Out of City Sewer Service**

If any Person located outside the City limits desires City sewer service and pays all expenses incurred in extending the sewer mains necessary to connect to the City's sewer system and secures all necessary easements and dedicates same to the City perpetually, so that the City incurs no expense in such connection, and the City elects to provide sewer service to such Person, and provided further that all mains, lines, and associated appurtenances installed meet the requirements and approval of the Public Works Director based on requirements or criteria set forth by City ordinance or other City regulations, then such Customer shall be furnished sewer services at the rate set forth in Anna Code Part IV, Schedule of Fees, Article 7, section 8(g) or (h) as applicable. Sewer utility-line extensions for sewer service outside of City limits shall be governed by Anna Code Part II, Article 49, Section 5.

*(Ord. No. 476-2009, adopted 11-10-09)*

**Section 4. Discharges of Wastes into Sanitary Sewers**

**4.01 Definitions**

The following words and phrases, when used in this section, shall have the meaning ascribed to them by this section. All terminology used in this section and not specifically defined herein, shall retain its meaning in conformance with applicable publications of the American National Standards Institute (ANSI) or its successor body or if not defined therein the latest volume of Merriam-Webster's Collegiate Dictionary.

*Approving Authority* means the Public Works Director or his duly authorized representative.

*B.O.D. (Biochemical Oxygen Demand)* means the quantity of biochemical oxidation of organic matter under standard laboratory conditions for five days at a temperature of 20 degrees centigrade.

*Building Sewer* means the extension from the building drain to the Public Sewer or other place of disposal (also called the house lateral and house connection).

*City* means the City of Anna, Texas, or any authorized Person acting in its behalf.

*C.O.D. (Chemical Oxygen Demand)* means measure of the oxygen consuming capacity of inorganic and organic matter present in the water or Wastewater expressed in mg/l as the amount of oxygen consumed from a chemical oxidant in a specific test, but not differentiating between stable and unstable organic matter and thus not necessarily correlating with B.O.D.

*Control Manhole* means a manhole giving access to a Building Sewer at some point before the Building Sewer discharge mixes with other discharges in the Public Sewer.

*Control Point* means point of access to a course of discharge before the discharge mixes with other discharges in the Public Sewer.

*Garbage* means animal and vegetable Wastes and residue from preparation, cooking and dispensing of food; and from the handling, processing, storage and sale of food products and produce.

*Industrial Waste* means Waste resulting from any process of industry, manufacturing, trade, or business from the development of any natural resource, or any mixture of the Waste with water or normal Wastewater, or distinct from normal Wastewater.

*Industrial Waste Charge* means the charge made on those Persons who discharge Industrial Wastes into the City's sewerage system.

*Milligrams Per Liter (mgl)* means the same as parts per million and is a weight-to-volume ratio; the milligram-per-liter value multiplied by the factor 8.34 shall be equivalent to pounds per million gallons of water.

*Natural Outlet* means any outlet into a watercourse, ditch, lake, or other body of surface water or groundwater.

*Normal Domestic Water* means Wastewater excluding Industrial Wastewater discharged by a Person into sanitary

sewers and in which the average concentration of total Suspended Solids is not more than 250 mgl and BOD is not more than 250 mgl.

*Overload* means the imposition of organic or hydraulic loading on a treatment facility in excess of its engineered design capacity.

*pH* means the logarithm (Base 10) of the reciprocal of the hydrogen ion concentration.

*Public Sewer* means pipe or conduit carrying Wastewater or unpolluted drainage in which owners of abutting properties shall have the use, subject to control by the City of Anna , Texas.

*Public Works Director* means the City's Public Works Director or a person having authority to act in the capacity of the Public Works Director in the absence of the Public Works Director.

*Sanitary Sewer* means a Public Sewer that conveys domestic Wastewater or Industrial Wastes or a combination of both, and into which storm water, surface water, groundwater, and other unpolluted Wastes are not intentionally adopted.

*Slug* means any discharge of water, Wastewater or Industrial Waste which in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than 15 minutes more than five times the average 24-hour concentration or flows during normal operation.

*Standard Methods* means the examination and analytical procedures set forth in the latest edition, at the time of analysis, or "Standard Methods for the Examination of Water and Wastewater" as prepared, approved, and published jointly by the American Water Works Association, and the Water Pollution Control Federation.

*Storm Sewer* means a Public Sewer which carries storm and surface waters and drainage and into which domestic Wastewater or Industrial Wastes are not intentionally adopted.

*Storm Water* means rainfall or any other forms of precipitation.

Suspended Solids (SS) means solids measured in mg/l that either float on the surface of, or are in suspension in, water, Wastewater, or other liquids, and which are largely, removable by a laboratory filtration device.

*To Discharge* includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

Trap means a device designated to skim, settle, or otherwise remove grease, oil, sand, flammable Wastes or other harmful substances.

*Unpolluted Wastewater* means water containing:

(a) no free or emulsified grease or oil;

(b) no acids or alkalis;

(c) no phenols or other substances producing taste or odor in receiving water;

(d) no toxic or poisonous substances in suspension, colloidal state, or solution;

(e) no noxious or otherwise obnoxious or odorous gases;

(f) not more than an insignificant amount in mg/l each of Suspended Solids and B.O.D, as determined by the Texas Water Commission or its predecessor agency(ies); and

(g) color not exceeding 50 units as measured by the Platinum-Cobalt method of determination as specified in Standard Methods.

*Waste* means rejected, unutilized or superfluous substances in liquid, gaseous, or solid form resulting from domestic, agricultural, or industrial activities.

*Wastewater* means a combination of the water-carried Waste from residences, business buildings, institutions, and industrial establishments, together with any ground, surface, and Storm Water that may be present.

*Wastewater Facilities* includes all facilities for collection, pumping, treating, and disposing of Wastewater and Industrial Wastes.

*Wastewater Treatment Plant* means any City-owned facilities for collection, pumping, treating, and disposing of Wastewater and Industrial Wastes.

*Wastewater Service Charge* means the charge on all users of the Public Sewer system whose Wastes do not exceed in strength the concentration values established as representative of normal Wastewater; and

*Watercourse* means a natural or man-made channel in which a flow of water occurs, either continuously or intermittently.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.02 Prohibited Discharges**

(a) No Person may discharge to Public Sewers any Waste which by itself or by interaction with other Wastes may:

(1) injure or interfere with Wastewater treatment processes or facilities;

(2) constitute a hazard to humans or animals; or

(3) create a hazard in receiving waters of the Wastewater Treatment Plant effluent.

(b) All discharges shall conform to requirements of this section.

**4.03 Chemical Discharges**

(a) No discharge to Public Sewers may contain:

(1) cyanide greater than 1.0 mg/l;

(2) fluoride other than that contained in the public water supply;

(3) chlorides in concentrations greater than 250 mg/l;

(4) gasoline benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid or gas; or

(5) substances causing an excessive Chemical Oxygen Demand (C.O.D).

(b) No Waste or Wastewater discharged to public waters may contain:

(1) strong acid, iron pickling Wastes, or concentrated plating solutions whether neutralized or not;

(2) fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperature between 32 and 150 degrees Fahrenheit (0 and 65 degrees Centigrade).

(3) objectionable or toxic substances, exerting an excessive chlorine requirement, to such degree that any such material received in the composite Wastewater treatment works exceeds the limits established by the Approving Authority for such materials; or

(4) obnoxious, toxic or poisonous solids, liquids, or gases in quantities sufficient to violate the provisions of subsection 4.03(a).

(c) No Waste, Wastewater, or other substance may be discharged into Public Sewers which has a pH lower than 5.5 or higher than 9.5, or any other corrosive property capable of causing damage or hazard to structures, equipment, and/or Personnel at the Wastewater Facilities.

(d) All Waste, Wastewater, or other substance containing phenols, hydrogen sulfide, or other taste-and-odor producing substances shall conform to concentration limits established by the Approving Authority. After treatment of the composite Wastewater, concentration limits may not exceed the requirements established by state, federal, or other agencies with jurisdiction over discharges to receiving waters.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.04 Hazardous Metals and Toxic Materials**

(a) No discharges may contain concentrations of hazardous metals other than amounts specified in subsection 4.04(b) below of this section.

(b) The allowable concentrations of hazardous metals, in terms of Milligrams Per Liter (mg/l), for discharge to inland waters, and determined on the basis of individual sampling in accordance with Standard Methods are:

| NOT TO EXCEED | | | |
|---|---|---|---|
| METAL | AVERAGE | DAILY COMPOSITE | GRAB SAMPLE |
| | | | |
| Arsenic | 0.1 | 0.2 | 0.3 |
| Barium | 1.0 | 2.0 | 4.0 |
| Cadmium | 0.05 | 0.1 | 0.2 |
| Chromium | 0.5 | 1.0 | 5.0 |
| Copper | 0.5 | 1.0 | 2.0 |
| Lead | 0.5 | 1.0 | 1.5 |
| Manganese | 1.0 | 2.0 | 3.0 |
| Mercury | 0.005 | 0.005 | 0.01 |
| Nickel | 1.0 | 2.0 | 3.0 |
| Selenium | 0.05 | 0.1 | 0.2 |
| Silver | 0.05 | 0.1 | 0.2 |
| Zinc | 1.0 | 2.0 | 6.0 |

(NOTE: These concentration parameters and rules governing same are promulgated under authority of Sections 5.131 and 5.132, Texas Water Code - HAZARDOUS METALS and in accordance with Texas Water Commission Rule 329.41-49, or as these provisions may be amended from time to time).

(c) No other hazardous metals or toxic materials may be discharged into Public Sewers without a permit from the Approving Authority specifying conditions of pretreatment, concentrations, volumes, and other applicable provisions.

(d) Prohibited hazardous materials include but are not limited to:

(1) Antimony,

(2) Beryllium,

(3) Bismuth,

(4) Cobalt,

(5) Molybdenum,

(6) Uranyl ion,

(7) Rhenium,

(8) Strontium,

(9) Tellurium,

(10) Herbicides,

(11) Fungicides, and

(12) Pesticides.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.05 Particulate Size**

(a) No Person may discharge Garbage or other solids into Public Sewers unless it is shredded to a degree that all particles can be carried freely under the flow conditions normally prevailing in Public Sewers. Particles greater than ½ inch in any dimensions are prohibited.

(b) The Approving Authority is entitled to review and approve the installation and operation of any Garbage grinder equipped with a motor of three-fourths horsepower (0.76 hp metric) or greater.

**4.06 Storm Water and Other Unpolluted Drainage**

(a) No Person may discharge to public Sanitary Sewers:

(1) unpolluted Storm Water, surface water, groundwater, roof runoff or subsurface drainage;

(2) unpolluted cooling water;

(3) unpolluted industrial process waters;

(4) other unpolluted drainage;

(b) No Person may make any new connections from inflow sources.

(c) In compliance with the Texas Water Quality Act and other statues, the Approving Authority may designate Storm

Sewers and other Watercourses into which unpolluted drainage described in subsection 4.06(a) of this section may be discharged.

**4.07 Temperature**

No Person may discharge liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade), or any substance which causes the temperature of the total Wastewater Treatment Plant influent to increase at a rate of 10 degrees Fahrenheit or more per hour, or a combined total increase of plant influent to 110 degrees Fahrenheit.

**4.08 Radioactive Wastes**

(a) No Person may discharge radioactive Wastes or isotopes into Public Sewers without the permission of the Approving Authority.

(b) The Approving Authority may establish, in compliance with applicable State and federal regulations, regulations for discharge of radioactive Wastes into Public Sewers.

**4.09 Impairment of Facilities**

(a) No Person may discharge into Public Sewers any substance capable of causing:

(1) obstruction to the flow in sewers;

(2) interference with the operation of treatment processes of facilities; or

(3) excessive loading of treatment facilities.

(b) Discharges prohibited by subsection 4.09(a) include, but are not limited to, materials which exert or cause concentrations of:

(1) inert Suspended Solids greater than 500 mg/l including but not limited to:

(i) Fuller's earth;

(ii) lime slurries; and

(iii) lime residues; or

(2) dissolved solids greater than 2000 mg/1 including but not limited to:

i. sodium chloride; and

(ii) sodium sulfate; or

(3) excessive discoloration including but not limited to:

i. dye Wastes; and

(ii) vegetable tanning solutions; or

(4) B.O.D, C.O.D, or chlorine demand in excess of normal plant capacity.

(c) No Person may discharge into Public Sewers any substance that may:

(1) deposit grease or oil in the sewer lines in such a manner as to clog the sewers;

(2) Overload skimming and grease handling equipment;

(3) pass to the receiving waters without being effectively treated by normal Wastewater treatment processes due to the nonamenability of the substance to bacterial action; or

(4) deleteriously affect the treatment process due to excessive quantities.

(d) No Person may discharge any substance into Public Sewers which:

(1) is not amenable to treatment or reduction by the processes and facilities employed; or

(2) is amenable to treatment only to such a degree that the treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

(e) The Approving Authority shall regulate the flow and concentration of Slugs when they may:

(1) impair the treatment process;

(2) cause damage to collection facilities;

(3) incur treatment costs exceeding those for normal Wastewater; or

(4) render the effluent unfit for stream disposal or industrial use.

(f) No Person may discharge into Public Sewers solid or viscous substances which may violate subsection 4.09(a) of this section if present in sufficient quantity or size including but not limited to:

(1) ashes;

(2) cinders;

(3) sand;

(4) mud;

(5) straw;

(6) shavings;

(7) metal;

(8) glass;

(9) rags;

(10) feathers;

(11) tar;

(12) plastics;

(13) wood;

(14) unground Garbage;

(15) whole blood;

(16) paunch manure;

(17) hair and fleshings;

(18) entrails;

(19) paper products, either whole or ground by Garbage grinders;

(20) slops;

(21) chemical residues;

(22) paint residues; or

(23) bulk solids.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.10 Compliance with Existing Authority**

(a) Unless exception is granted by the Approving Authority, the public Sanitary Sewer system shall be used by all Persons discharging:

(1) Wastewater;

(2) Industrial Wastes;

(3) polluted liquids;

(b) Unless authorized by the Texas Water Commission or its predecessor agency(ies), no person may deposit or discharge any Waste included in subsection 4.10(a) of this section on public or private property or into or adjacent to any:

(1) Natural Outlet;

(2) Watercourse;

(3) Storm Sewer;

(4) other area within the jurisdiction of the City.

(c) The Approving Authority shall verify prior To Discharge that Wastes authorized to be discharged will receive suitable treatment according to permits, rules, and regulations of federal, state and local governments.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.11 Approving Authority Requirements**

(a) If discharges or proposed discharges to Public Sewers may:

(1) deleteriously affect Wastewater Facilities, processes, equipment, or receiving waters;

(2) create a hazard to life or health; or

(3) create a public nuisance;

the Approving Authority shall require:

(i) pretreatment to an acceptable condition for discharge to the Public Sewers;

(ii) control over the quantities and rates of discharge; and

(iii) payment to cover the cost of handling and treating the Wastes.

(b) The Approving Authority is entitled to determine whether a discharge or proposed discharge is included under subsection 4.11(a) of this section.

(c) The Approving Authority shall reject Wastes when it determines that a discharge or proposed discharge does not meet the requirements of subsection 4.11(a) of this section.

**4.12 Approving Authority Review and Approval**

(a) If pretreatment or control is required, the Approving Authority shall review and approve design and installation of equipment and processes.

(b) The design and installation of equipment and processes must conform to all applicable statutes, codes, ordinances and other laws.

(c) Any Person responsible for discharges requiring pretreatment, flow equalizing, or other facilities shall provide and maintain the facilities in effective operating condition at his own expense.

**4.13 Requirements for Traps**

(a) Discharges requiring a Trap include:

(1) grease or Waste containing grease in amounts that will impede or stop the flow in the Public Sewers;

(2) oil;

(3) sand;

(4) flammable Wastes; and

(5) other harmful ingredients.

(b) Any Person responsible for discharges requiring a Trap shall at his own expense and as required by the Approving Authority:

(1) provide equipment and facilities of a type and capacity approved by the Approving Authority;

(2) locate the Trap in a manner that provides ready and easy accessibility for cleaning and inspection; and

(3) maintain the Trap in effective operating condition.

**4.14 Requirements for Sewers**

(a) Any Person responsible for discharges through a Building Sewer carrying Industrial Wastes shall, at his own expense and as required by the Approving Authority:

(1) install an accessible Control Manhole;

(2) install meters and other appurtenances to facilitate observation sampling and measurement of the Waste; and

(3) install safety equipment and facilities (ventilation, steps, etc.) where needed;

(4) maintain the equipment and facilities.

(b) Any Person responsible for discharges through a Building Sewer shall at his own expense and as required by the Approving Authority design and install the Building Sewer and the connection to the Public Sewer.

(c) All sewers shall be designed and installed in accordance with state and local criteria and requirements.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.15 Sampling and Testing**

(a) Sampling shall be conducted according to customarily accepted methods, reflecting the effect of constituents upon the sewage works and determining the existence of hazards to health, life, limb, and property.

*(NOTE: The particular analysis involved will determine whether a 24-hour composite sample from all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and Suspended Solids analyses are obtained from 24-hour composites of all outfalls. Where applicable, 16 hour, 8 hour or some other period may be required. Periodic grab samples are used to determine pH and oil and grease.)*

(b) Examination and analyses of the characteristics of waters and Wastes required by this section shall be:

(1) conducted in accordance with the latest edition of Standard Methods; and

(2) determined from suitable samples taken at the Control Manhole provided or other Control Point authorized by the Approving Authority.

(c) B.O.D. and Suspended Solids shall be determined from composite sampling, except to detect unauthorized discharges.

(d) The Approving Authority shall determine which users or classes of users may contribute Wastewater which is of greater strength than normal domestic Wastewater. All users or classes of users so identified shall be sampled for flow B.O.D., TSS and pH at least annually.

(e) City may select an independent firm or laboratory to determine flow, B.O.D., and Suspended Solids, if necessary. Flow may alternately be determined by water meter measurements if no other flow device is available and no other source of raw water is used.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.16 User Charge System**

(a) Persons making discharges of Industrial Waste into the City of Anna system shall pay a charge to cover all costs of collection and treatment.

(b) When discharges of any Waste into the City of Anna system are approved by the Approving Authority, the City or its authorized representative shall enter into an agreement or arrangement providing:

(1) terms of acceptance by the City;

(2) payment by the Person making the discharge, in accordance with the User Charge System as established in this section;

(3) new sewer construction and sewer connection procedures and requirements shall be in accordance with the "Uniform Plumbing Code" as promulgated by the International Association of Plumbing and Mechanical Officials;

(4) a sewer application approved with connection fee paid; and

(5) construction of sewer connections shall be approved by City inspectors prior to sewer use.

(c) Each user of the Wastewater treatment system will be notified, at least annually, in conjunction with a regular sewer bill, of the rate.

(d) The City will apply excess revenues to the cost of operation and maintenance for the next year and adjust the rates accordingly.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.17 Savings Clause**

(a) A Person discharging Wastes into Public Sewers prior to the effective date of this section may continue without penalty so long as he:

(1) does not increase the quantity or decrease the quality of discharge without permission of the Approving Authority;

(2) has discharged the Waste at least one month prior to the effective date of this section; and

(3) applies for and is granted a permit no later than 12 months after the effective date of this section.

**4.18 Conditions or Permits**

(a) The City may grant a permit To Discharge to Persons meeting all requirements of the savings clause provided that the Person:

(1) submit an application within 12 months after the effective date of this section on forms supplied by the Approving Authority;

(2) secure approval by the Approving Authority of plans and specifications for the facilities when required; and

(3) has complied with all requirements for agreements or arrangements including but not limited to, provisions for:

(i) payment of charges;

(ii) installation and operation of the facilities and of pretreatment facilities, if required, and

(iii) sampling and analysis to determine quantity and strength when directed by the City; and

(4) provides a sampling point, when requested by the City, subject to the provisions of this section and approval of the Approving Authority.

(b) A Person applying for a new discharge shall:

(1) meet all conditions of subsection 4.18(a) of this section; and

(2) secure a permit prior to discharging any Waste.

**4.19 Power to Enter Property**

(a) The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification are entitled to enter any public or private property at any reasonable time for the purpose of enforcing this section.

(b) Anyone acting under this authority shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection.

(c) Except when caused by negligence or failure of Person(s) to maintain safe conditions, the City shall indemnify the Person(s) against loss or damage to their property by City employees and against liability claims and demands for Personal injury or property damage asserted against the Person(s) and growing out of the sampling operation.

(d) The Public Works Director and other duly authorized employees of the City bearing proper credentials and identification are entitled to enter all private properties through which the City holds a negotiated easement for the purposes of:

(1) inspection, observation, measurement, sampling or repair;

(2) maintenance of any portion of the sewerage system lying within the easements; and

(3) conducting any other authorized activity. All activities shall be conducted in full accordance with the terms

of the negotiated easement pertaining to the private property involved.

(e) No Person acting under authority of this provision may inquire into any processes 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 Public Sewers.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.20 Authority to Disconnect Services**

(a) The City may terminate water and Wastewater disposal service and disconnect a Customer from the system when:

(1) acids or chemicals which may damage the sewer lines or treatment process are released to the sewer potentially causing accelerated deterioration of these structures or interfering with proper conveyance and treatment of Wastewater;

(2) a governmental agency informs the City that the effluent from the Wastewater Treatment Plant is no longer of a quality permitted for discharge to a Watercourse, and it is found that the customer is delivering Wastewater to the City's system that cannot be sufficiently treated or requires treatment that is not provided by the City as normal domestic treatment; or

(3) the customer:

(i) discharges Waste or Wastewater that is in violation of the permit issued by the Approving Authority;

(ii) discharges Wastewater at an uncontrolled, variable rate in sufficient quantity to cause an imbalance in the Wastewater treatment system;

(iii) fails to pay monthly bills for water and Sanitary Sewer services when due; or

(iv) repeats a discharge of prohibited Wastes to Public Sewers in violation of sections 4.02 through 4.09 as stated above.

(b) If service is discontinued pursuant to subsection 4.20(a)(2) of this section, the City shall:

(1) disconnect the customer;

(2) supply the customer with the governmental agency's report and provide the customer with all pertinent information; and

(3) continue disconnection until such time as the customer provides pretreatment/additional pretreatment or other facilities designed to remove the objectionable characteristics from his Wastes.

*(Ord. No. 476-2009, adopted 11-10-09)*

**4.21 Notice**

The City shall serve Persons discharging in violation of this section with written notice stating the nature of the violation and providing a reasonable time limit for satisfactory compliance.

**4.22 Continuing Prohibited Discharges**

No Person may continue discharging in violation of this section beyond the time limit provided in the notice.

**4.23 Reserved**

(Ord. No. 476-2009, adopted 11-10-09)

**4.24 Failure to Pay**

In addition to sanctions provided for by this section, the City is entitled to exercise sanctions provided for by the other ordinances of the City or sections in this Code for failure to pay the bill for water and Sanitary Sewer service when due.

*Cross reference: Appendix I, Section 12*

**4.25 Penalty for Criminal Mischief**

The City may pursue all criminal and civil remedies to which it is entitled under authority of statutes and ordinances against a Person negligently, willfully or maliciously causing loss by tampering with or destroying Public Sewers or treatment facilities.

*(Ord. No. 1997-13, adopted 10/14/1997)*

**4.26 Building/ Yard Line Sewer Inspections**

Each Building Sewer shall be inspected by video camera. Inspections shall be conducted on all new construction and Building Sewers that are being replaced. Inspections shall be conducted by the City of Anna Public Works Department. This inspection will be scheduled after the rough plumbing inspection when all test plugs have been removed and the Building Sewer trench has been backfilled. The Building Sewer camera inspection must be performed and approved before receiving a framing inspection for new construction and prior to issuance of a green tag for Building Sewers that are being replaced. The fees for inspection and re-inspection are set forth in Anna Code, Part IV, Art. 7, Sec. 10.

*(Ord. No. 232-2005, adopted 10/25/2005) (Ord. No. 476-2009, adopted 11-10-09)*

**Section 5. Water and Sewer Main Extensions**

**5.01 Extensions by the City**

Extension of main lines for all City utility services will be made by the City along dedicated streets, alleys, or in dedicated utility easements that are filed in the deed records of the county where the easement is located, if such extension is economically feasible, or if the future growth of the area to be served is dependent upon the extension, and the Council finds that such extension is in the best interest of the City.

*(Ord. No. 476-2009, adopted 11-10-09)*

**5.02 Extension Requested by Others**

Any Person desiring an extension of the City water or sewer mains shall first make application for such extension to the City Secretary and a copy delivered to the Public Works Director.

*(Ord. No. 476-2009, adopted 11-10-09)*

**5.03 Cost of Extensions Requested By Other**

Except where otherwise provided by intergovernmental contract with another governmental entity or as otherwise provided under regulations adopted by the City under Chapter 395 of the Local Government Code, the entire cost of labor and materials for extension of City water and sewer mains and the total cost for acquiring and executing any easements required shall be paid by the Person making the request, and if the City performs any related construction, then payment shall be made to the City prior to its commencement of such construction.

*(Ord. No. 476-2009, adopted 11-10-09)*

**5.04 Standards**

All extensions to the City water or sewer mains shall be made according to City specifications and in conformity with City standards and codes in force at the time of such extension. No water or sewer main shall be installed in the City smaller than eight inches in diameter.

*(Ord. No. 476-2009, adopted 11-10-09)*

**5.05 Control and Jurisdiction over Extensions**

All City water and sewer main extensions shall, upon acceptance, become the property of the City of Anna, and the City shall have full control and jurisdiction over such lines and their easements.

**5.06 Pro-Rata Line Charges**

No Pro-Rata line agreement shall be approved that extends more than five years from completion date of the water or sewer line. Any agreement on behalf of the City to collect and disburse off-site refund payments will never be enforceable as an obligation of the City.

*(Ord. No. 112-2003, adopted 11/12/2003)*

**Section 6. Garbage and Refuse Service**

**6.01 Sanitation Collection Service Required**

Every Person owning, managing, operating, leasing, renting, or building on any premises or any place where debris (including but not limited to construction debris), garbage or rubbish accumulates shall subscribe to a sanitation collection service as provided for in this section. It is unlawful for any Person to dispose of or disburse any garbage or trash in any place other than the designated sites. It is unlawful for anyone to deposit or dump garbage or trash upon any drain, gutter, alley, sidewalk, parkway, street, or vacant lot except in receptacles as outlined.

*(Ord. No. 476-2009, adopted 11-10-09)*

**6.02 Container Required**

(a) Every Customer subscribing to sanitation collection service shall use the container or containers for trash and recyclable material provided to each Customer as outlined in the contract between the City and the provider of solid Waste collection. The City may require a Customer to acquire additional containers from the provider at locations that regularly generate solid Waste in excess or what can be contained in containers provided by solid Waste collection contractor.

(b) Unless otherwise provided for in a solid Waste collection contract, Customers shall not place solid Waste intended for collection in any other container except in those provided by the City's solid Waste collection contract. The disposal of bundles (including tree, shrub and brush trimmings or newspapers and magazines) and bulky items shall conform to the requirements outlined in the contract for solid Waste collection.

(c) The City may deny the acquisition of additional containers and may require commercial-type containers (dumpsters) for non-residential locations that regularly produce solid Waste in excess of what can be contained in three 96 gallon trash containers.

(d) This section is not applicable to commercial accounts that are provided with a commercial container including construction debris bins, dumpsters or roll off containers.

*(Ord. 259-2006, adopted 3/14/2006) (Ord. No. 476-2009, adopted 11-10-09)*

**6.03 Placement and Storage of Containers**

(a) It shall be the duty of every Person subscribing to the sanitation collection service to place such garbage containers directly behind the curb-line of the street or alley abutting such property or in the absence of a curb directly behind the ditch-line abutting such property or in the place directed by the City Manager or his designee. Prudently such containers shall not be placed in the street or on the sidewalk or in any manner placed where the containers will interfere with vehicular or pedestrian traffic in a residential area. In a commercial area were the sidewalk covers the entire area from the business to the street the container shall be placed at the edge of the sidewalk near the street so long as it does not block pedestrian traffic. It shall be the responsibility of the subscriber to place the containers no earlier than 6:00 p.m. of the afternoon preceding the collection day and the containers must be removed within 24 hours of scheduled pickup.

(b) Except during the normal collection period, garbage and recycling containers, may not be stored or placed in the front yard of any location that subscribes to residential or commercial hand pick-up collection service.

*(Ord. No. 476-2009, adopted 11-10-09)*

**6.04 Meddling with Trash Receptacles Prohibited**

It shall be unlawful to meddle with or scavenge from any garbage cans, dumpsters, roll off containers, trash or garbage receptacles or any way pilfer, search, or scatter contents of such garbage cans, dumpsters, roll off containers, or rubbish receptacles in or upon any street or alley within the City limits.

**6.05 Use of Trash Service by Persons Not Subscribing To Service**

It shall be unlawful for any Person to place garbage or rubbish to be picked up by the City or the City's contractor on property that they are not paying a subscription fee. It shall be unlawful for a subscriber to place garbage and refuse generated at another location out to be picked up by the City or the City's contractor unless the Person is paying a subscription fee for both locations. It shall be unlawful to place any garbage or rubbish in any dumpster or roll off container unless the Person has the written permission from the subscriber of the service.

**6.06 Containers to be Kept Sanitary and Secure**

All containers shall be kept clean and free from accumulation of any substance remaining attached to the inside of the container, which would attract or breed flies, mosquitoes, or other insects. The area surrounding garbage containers shall be maintained in a clean and sanitary condition. The contents of all receptacles shall be protected so that the wind cannot scatter the contents over the streets, alleys or other property within the City. All containers shall be secured closed in such a manner as to prevent the scattering of the contents and to make them inaccessible to insects, rodents, dogs, cats, and other animals.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

### 6.07 Unauthorized Private Collections Prohibited

It shall be unlawful for any Person to transport construction debris, garbage or refuse for hire which has been collected from any premises within the City over any public street within the City. This section shall not apply to any Person or company who at the time of such activity is operating under a valid contract or franchise granted by the City which authorizes such Person to use the public streets to conduct such activity.

*(Ord. 259-2006, adopted 3/14/2006)*

### 6.08 Collection of Charges

The charges fixed for the collection, removal, and disposal of all garbage and/or trash shall be entered in their respective amounts on the utility bill. The City may discontinue all utility services, including water, sewer, and garbage and trash services, for failing to pay any such assessed charges and until such charges have been paid in full.

*(Ord. No. 112-2003, adopted 11/12/2003)*

### 6.09 Rules, Regulations, and Prohibited Acts

(a) Rules and regulations negotiated between the contractor and/or franchisee providing sanitation collection service and the City shall be followed by each subscriber to the service. Persons that do not follow these rules and regulations or commit any prohibited act in the rules and regulations may have their utility services terminated and may be cited and fined.

(b) Unusual amounts of garbage and trash accumulated from packing houses, poultry killing plants, wholesale fruit and vegetable houses and other such establishments must remove the trash daily at their own expense or contract with the franchise operator.

(c) Accumulations such as construction debris, automobile parts, and large dead trees must only be disposed of by the City's franchise contractor.

(d) It is unlawful to leave out any ice box, refrigerator, freezer or any other container with self-locking door or lid unless the mechanism is altered so that the door or lid can be opened from the inside or by completely removing the door or lid.

(e) The United States EPA prohibits the disposal of "white goods" containing Freon without a certificate of removal from a licensed technician. This includes such items as refrigerators, freezers, and air conditioners.

(f) Manure from cow lots, horse stables, poultry yards and Waste oils from garages and filling stations must be disposed of by the owner.

*(Ord. 259-2006, adopted 3/14/2006)*

### 6.10 Non-Residential Customers; Container Types; Collection Schedules

(a) It shall be the duty of the owner or Person otherwise in charge of multifamily, institutional, or industrial premises within the City to cause all garbage and trash accumulated on the premises to be placed in disposable containers, or commercial-type containers. Commercial-type containers may be used and may be placed at a location on the Customer's premises as arranged between the Customer and the collector, but subject to review by the City at any time.

(b) Disposable containers shall be placed at a location on the premises which is readily accessible to the collector.

(c) The amount and character of garbage shall be considered in establishing size of commercial containers and frequency of pickup. The City shall have final authority to establish such size and frequency based on the history of amount and type of garbage generated by the Customer. The collection and removal of garbage and trash from premises used for commercial, institutional, or industrial purposes shall be made as often as necessary in order to maintain the premises free of such accumulations. Garbage, except dry trash in contractor-supplied containers, shall be collected not less than one time each week, except for roll-off containers which shall not be subject to this provision so long as they are used solely for brush and dry trash.

*(Ord. No. 476-2009, adopted 11-10-09)*

### 6.11 Contract and/or Franchise for Collection Required; Exception

(a) No Person shall collect, remove, or dispose of garbage containers or trash receptacles or transport construction debris, garbage or trash on the streets, alleys, or public thoroughfares of the City except duly authorized agents or employees of the City and Persons acting pursuant to a contract with the City for public collection and disposal of garbage and trash, except as provided in this section. No Person shall obtain the services described in this subsection except from duly authorized agent or employees of the City and Persons acting pursuant to a contract with the City for public collection and disposal of construction debris, garbage, and trash. This section shall not apply to the transportation of garbage, trash, or brush from outside the City to a disposal site outside the City.

(b) All trucks and containers used for the collection and transportation of garbage and trash shall be clearly marked with the owner's name and telephone number in letters and figures not less than two inches high.

(c) Notwithstanding anything in this section to the contrary, individuals desiring to occasionally remove large amounts of brush, debris, or trash from their own residential premises may contract with the City's contractor or other Persons for the temporary placement and removal of a dumpster or roll-off bin provided that said individual maintains regular service from the City's contractor.

*(Ord. No. 274-2006, adopted 6/27/2006)*

### 6.12 Out-of-City Services

The City is not required to furnish garbage services to Persons beyond the corporate limits, or to continue to supply, once begun, such services. The City reserves the right to provide services to such Persons it deems advisable and to, at any time, wholly or partially, discontinue such services to any Person located outside the corporate limits.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

## Section 7. Rates and Charges

### 7.01 Definitions

*Institutional Customer* as used in Part IV (Schedule of Fees), Article 7, Section 8 means an entity including a hospital, prison,

or public or private school (not including a preschool or day-care center), college, or political subdivision.

*(Ord. No. 440-2009, adopted 4/14/2009)*

*Minimum Charge* as used in Part IV (Schedule of Fees), Article 7, Section 8 means the minimum base charge to a City of Anna Customer for water and sewer service which is determined by the size of the Customer's meter.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.02 Water; Meters and Billing**

All premises using the City water supply must be equipped with an adequate meter furnished by the City under the hereinafter stated deposit and fee procedures. The City of Anna shall read or cause to be read, every water meter used in the City at such times as are necessary that the bills may be sent out at the proper time. Under unusual circumstances or during an emergency the City may estimate the reading of meters. Bills for water use shall be dated and sent monthly, or as such times as may be directed by the Mayor and City Council.

**7.03 Deposits, Connection and Transfer Fees for Water Service**

(a) All Persons—prior to use of water from the City water system--must place with the City a water meter/security deposit for each account or meter. Such water meter/security deposit amounts are set forth in Part IV, Schedule of Fees, Article 7, Section 4. All Persons—prior to using of water from the City water system—must pay a nonrefundable service connection fee in the amount set forth in Anna Code, Part IV, Schedule of Fees, Article 7, Section 4.5.

(b) All Persons that are disconnected for nonpayment of a bill more than two times in a 12-month period must increase their deposit by 100% before the account may be reconnected.

(*Ord. No. 449-2009, adopted 06/23/2009*) *(Ord. No. 476-2009, adopted 11-10-09)*

**7.04 Refund of Deposit**

Refunds of deposits made for utility service shall be made upon the termination of such utility service after payment of all indebtedness to the City for such utility service. Application of the deposit may be made in partial or total settlement of accounts when the supply is cut off for nonpayment of the bill, or for any infraction or violation of any ordinance, rule or regulation of the City relative to utility services offered by the City.

**7.05 Effect of Transfer, Moving**

There shall be no transfer, or so-called transfer, from one location to another of deposits made for utility services and in each case, the transfer shall be considered a new application for service and shall be treated as such. When premises are vacated, any amounts due for water service shall be paid in full and utility service shall not be commenced at another place until this is done if the Customer has been disconnected for nonpayment any time in the last two years or there is more than one month payment remaining on the vacated premises. Such move from one place to another shall be considered as a new request for utility service and applicants shall be required to make the current deposit and pay the current installation charge that shall be in effect at the time such request is made.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.06 Rate Schedule for Water, Sewer and Trash**

Except as otherwise set forth in this Article, the City's rates and charges applicable to water, sanitary sewer, and trash service are as set forth in Anna Code, Part IV, Schedule of Fees, Article 7.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.07 Water and Sewer Tap Fees, Water Meter Set Fees**

In addition to the deposit amount(s) and service connection fee(s) described in Section 3.03 above, all Persons—prior to tapping into the City's water system or sewer system—shall be charged water and sewer tap fees in the amounts set forth in Part IV, Schedule of Fees, Article 7, Section 3.

*(Ord. No. 231-2005, adopted 10/25/2005, Ord. No. 449-2009, adopted 06/23/2009) (Ord. No. 476-2009, adopted 11-10-09)*

**7.08 Reserved**

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.09 When Payment Due**

All bills for Utility services furnished by the City shall be due and payable, in full, prior to midnight of the due date shown on the utility bill or 15 days after the utility bills are mailed, whichever is later; provided, however, that if the final date for payment falls on a Saturday, Sunday or a legal holiday observed by the City, then payment must be made prior to midnight of the following business day. Failure to pay a bill timely results in an additional charge as set forth in Anna Code, Part IV, Schedule of Fees, Article 7, Section 5. A Customer with an unpaid bill will be notified of same in accordance with Section 7.10. *(Ord. No. 476-2009, adopted 11-10-09)*

**7.10 Disconnection for Nonpayment**

Water, sewer, and garbage collection services to any Customer are subject to discontinuation after 10 days from the date the bill is due and payable, if not paid in full. The following policies will be followed by the City regarding discontinuation of services for nonpayment.

(a) When it becomes necessary for the City to discontinue utility service to a Customer for nonpayment of bill, service will be reinstated only after all bills for service then due and reconnect charges have been paid and any required deposit(s) have been made.

(b) It is the policy of the City to discontinue utility service to Customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The notices sent to the Customer must set out the reasons for the discontinuance and the procedure for requesting a hearing. The City's form for application for utility services and all bills shall contain, in addition to the title, address, and telephone number of the Public Works Director, who is in charge of billing, clearly visible and easily readable provisions to the effect that:

(1) all bills are due and payable on or before the time set forth under Section 7.09;

(2) if any bill is not paid by or before 10 days after the bill is due and payable, service will be discontinued for nonpayment; and

(3) any Customer disputing the correctness of this bill shall have a right to a hearing at which time he may

be represented in Person and by counselor any other Person of his choosing and may present orally or in writing his complaint and contentions to the Public Works Director. The Public Works Director shall be authorized to order that the Customer's service not be discontinued and shall have the authority to make a final determination of the Customer's complaint.

(c) The above-referenced notice will include the full amount due and the scheduled date of termination of service for failure to pay. The written notification may be provided through certified mail. Return receipt requested or personal service. However, in the event that such means of notification do not succeed, the written notification may be placed on the front door of the main structure at the Customer's address, or as close thereto as feasible. A service fee in the amount stated in Part IV, Schedule of Fees, Article 7, Section 5(b) shall be added to the Customer's bill for the notification service, regardless of the means used to provide notification.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.11 Reconnection after Disconnection**

(a) In the event that utility service is disconnected for nonpayment of the bill, the Customer shall have the right to have the same reconnected only upon the payment by the Customer of all outstanding utility charges owed to the City, plus a reconnection fee if the request is during normal business hours. If the water is turned back on without payment or without the City's authorization, the meter is subject to being removed or locked by the City, and there shall be an increased reconnection fee. If the payment and request is outside of normal business hours an additional amount shall be added to the reconnection fees described above. All charges due under this subsection must be paid by check or money order payable the City of Anna and no cash shall be accepted.

(b) In the event that utility service is temporarily disconnected at the request of the Customer, a service charge shall be added to the account for disconnection and reconnection of utility service during normal working hours of the City. If the request is outside of normal business hours an additional fee shall be added to the account.

(c) If a water Customer's meter has been cut off due to nonpayment and the Customer pays all amounts due during normal business hours (8:00 a.m. to 4:30 p.m.), including any additional charges such as late penalties, the Public Works Department of the City will make reasonable efforts to turn the Customer's water on that same day or as reasonably soon thereafter as is practicable under the circumstances.

(d) The Public Works employee who reconnects water service will make reasonable efforts to insure that water is not running on the Customer's side of the meter when the reconnection is made. If the water meter indicates that water is running on the Customer's side of the meter, the employee will discontinue water service by turning off the meter. The Customer is then responsible for contacting the City to reconnect the service.

(e) The amounts of the fees and charges referenced under subsection (a) and (b), above, are set forth in Anna Code, PartIV, Schedule of Fees, Article 7, Section 6.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.12 Voluntary Discontinuance of Service**

Customers wishing to discontinue the use of any utility service shall give written notice thereof at the City Hall. Failure to do so shall render them liable for the payment of all bills until such notice has been given.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.13 Franchised Public Utilities**

The City Council shall fix and approve the rates charged by any private owned public utility company franchised by the City and doing business within the City. It shall be unlawful for any such public utility company or any officer or employee thereof to assess or charge for services rendered any rate other than the rate so fixed or approved.

*(Ord. No. 112-2003, adopted 11/12/2003) (Ord. No. 476-2009, adopted 11-10-09)*

**7.14 Water & Sanitary Sewer Service Rates**

*See Part IV, Schedule of Fees, Article 7, Section 8 for water and sewer rates.*

*(Ord. No. 407-2008, adopted 9/23/2008; Ord. No. 429-2009, adopted 1/27/2009)*

**7.15 Rates for Solid Waste**

Rates for solid waste services shall be set forth in Anna Code, Part IV, Schedule of Fees, Article 7, Section 1.

*(Ord. No. 476-2009, adopted 11-10-09)*

**7.16 Tampering with Water or Sewer Works Prohibited**

It is unlawful to injure or in any way tamper with any part of the water or sewer works of the City, to include willfully or negligently clogging any sewer drain.

**7.17 Water Conservation and Drought Contingencies**

Incorporated herein as if set forth in full is City of Anna Ordinance No. 439-2009, as amended.

(Ord. No. 476-2009, adopted 11-10-09)

**7.18 Water Leak Forgiveness**

(a) Though it is the responsibility of every Customer to keep their water service lines in a state of good repair, leaks do occur, and the City recognizes that an undetected leak can have a significant financial impact on a Customer who experiences one. At the same time, the City has costs associated with the delivery of treated water to each Customer. The costs of treating the water and maintaining the water infrastructure are recovered from Customers through the assessment of certain set water rates. The City, weighing both the costs of supplying the water to each customer and the City's desire to assist Customers with the financial burden caused by certain water leaks, has established this policy.

(b) A Customer who incurs charges on their utility bill as a result of a water leak that was not reasonably detectable and that was caused through no fault of the Customer may take advantage of this forgiveness policy only once during a 36-months period, as indicated in the City's billing records.

(c) The Customer taking advantage of this policy must meet these requirements before staff can grant the forgiveness:

(1) An affidavit, sworn to by the Customer and notarized, must be provided to City staff that details that the leak occurred, where the leak was, how it was detected, when it was detected, how it was caused (if able to be determined), how it was repaired and when it was repaired.

(2) Along with the affidavit, if the leak was repaired by a licensed plumber, a copy of a detailed receipt must be supplied. Or, in the event the Customer fixed the leak themselves, a copy of the receipt for any hardware/plumbing supplies must be attached.

(d) Upon receipt of the required documents, the Utility Billing Section will then take the average of both the water and sewer side of the Customer bill for the three previous months, added to the current month, and compute the bill as it is done below:

(1) The water leak forgiveness formula is based on an average of the previous three months, including the leak month (per the city's most currently adopted water and sewer rates).

Example:

- January-$18.00
- February-$18.00
- March-$26.00
- April (leak month)-$230.00

AVG: $73.00

(2) The sewer side of the utility bill is also addressed in the same manner.

Example:

- January-$18.00
- February-$18.00
- March-$26.00
- April-$52.00 (sewer use capped at this level)

AVG: $27.75

(3) The two averages are then added together to total the customer's bill for the month during which the leak occurred, in this case, $100.75.

*Note: without this policy, the customer's utility bill would have totaled $282.00 for the leak month*.

(e) A customer who does not have three previous months of water service will have all existing charges on their account as a customer, whatever length of time that may be, added to the current bill to establish their average.

*(Ord. No. 98-14, adopted 10/27/1998) (Ord. No. 361-2008, adopted 2/12/2008) (Ord. No. 476-2009, adopted 11-10-09)*

## Section 8. Water and Sanitary Sewer Impact Fees

### 8.01 Purpose

This section is adopted pursuant to the provisions of Chapter 395 of the TEXAS LOCAL GOVERNMENT CODE, V.A.T.S., as amended, as well as under the authority of Article 11, Section 5 of the Texas Constitution. This section implements a policy of the City to impose fees on each New Development project to pay the costs of constructing Capital Improvements and Facility Expansions necessary to serve New Development.

### 8.02 Definitions

For purposes of this section, the following definitions apply:

*Advisory Committee* (also referred to as Impact Fee Advisory Committee) means those appointed by the City Council to provide advice to the City Council regarding Impact Fees as required by the enabling legislation for this section.

*Assessment* means the determination of the amount of the maximum impact fee that can be imposed on New Development pursuant to this section.

*Capital Improvement* means the following facilities that have a life expectancy of three or more years and are owned and operated by or on behalf of the City:

(1) Water supply and distribution facilities; Wastewater collection facilities; and storm water, drainage, flood control facilities as they relate to the construction of Roadway Facilities; whether or not they are located within the Service Area; and

(2) Roadway Facilities.

*Capital Improvements Plan* means a plan that identifies Capital Improvements or Facility Expansions for which Impact Fees may be assessed, as adopted by the City from time to time.

*City* means the City of Anna, Collin County, Texas.

Credit means the amount of the reduction of an impact fee for fees, payments or charges for or construction of the same type of facility.

*Facility Expansion* means the expansion of capacity of an existing facility that serves the same function as an otherwise necessary new Capital Improvement, in order that the existing facility may serve New Development. The term does not include the repair, maintenance, modernization, or expansion of an existing facility to better serve existing development.

*Final Plat Approval or Approval of a Final Plat* means the point at which the applicant has complied with all the conditions of approval and the plat has been released by the City for filing with the county clerk.

*Impact Fee* means a charge or Assessment imposed against New Development in order to generate revenue for funding or recovering the costs of Capital Improvements or Facility Expansions necessitated by and attributable to New Development. The term includes amortized charges, lump sum charges, capital recovery fees, contributions in aid of construction, and any other fee that functions as described by this definition. The term does not include:

(1) Required dedications of land for public parks or payments made in lieu thereof;

(2) Dedication of rights-of-way or easements, or the construction or dedication of On-Site or Off-Site water distribution, Wastewater collection or drainage facilities, or streets, sidewalks, or curbs if the dedication or construction is required by a valid ordinance and is necessitated by and attributable to the New Development;

(3) Lot or acreage fees or pro-rata fees to be placed in trust funds for the purpose of reimbursing Developers for constructing or over-sizing water or sewer mains or lines; or

(4) Other pro rata fees for reimbursement of water or sewer mains or lines extended by the City.

*Land Use Assumptions* mean a description of the Service Area and projections of changes in land uses, densities, intensities, and population in the Service Area over at least a 10-year period which has been adopted by the City and upon which the Capital Improvements Plan is based.

*New Development* means the subdivision of land, the construction, reconstruction, redevelopment, conversion, structural alteration, relocation, or enlargement of a structure; or any use or extension of the use of land; any of which increases the number of Service Units.

*Off-Site* means located entirely on property which is not included within the bounds of the plat being considered for Impact Fee Assessment.

*On-Site* means located at least partially on the plat which is being considered for Impact Fee Assessment.

*Roadway Facilities* means arterial or collector streets or roads that have been designated on the City's officially adopted Thoroughfare Plan, together with all necessary appurtenances. The term includes the City's share of costs for roadways and associated improvements designated on the federal or Texas highway system, including local matching funds and costs related to utility line relocation and the establishment of Curbs, gutters, sidewalks, drainage appurtenances, and rights-of-way. The term includes but is not limited to interest in land, traffic lanes, curbs, gutters, intersection improvements, traffic control devices, turn lanes, drainage facilities associated with the roadway or street lighting.

*Service Area* means:

(1) for water supply treatment and distribution facilities, wastewater collection and treatment the entire area within the corporate limits of the City and its extraterritorial jurisdiction to be served by the Capital Improvements and facilities expansions specified in the Capital Improvements Plan;

(2) for Roadway Facilities: each individual Service Area designated in the Capital Improvements Plan served by the Roadway Facilities designated in the Capital Improvements Plan. The Service Area is limited to an area within the corporate boundaries and shall not exceed six miles.

(3) for drainage facilities: the Service Area is limited to an area within the corporate boundaries and its extraterritorial jurisdiction, but shall not exceed the actual served by the storm water, drainage and flood control facilities designated in the Capital Improvements Plan but shall not extend across watershed boundaries.

*Service Unit* means for purposes of Impact Fee Assessment the applicable standard units of measure shown on the conversion table in the Capital Improvements Plan and impact fee calculation which can be converted to equivalent single-family residential PM peak hour average vehicle trip ends per acre for Roadway Facilities and ¾ inch water meter equivalents as the context indicates, which serves as the standardized unit of measure of consumption or discharge for water and wastewater facilities and based on historical data and trends during the previous 10 years.

*Sanitary Sewer Facility* means an improvement for providing wastewater collection, including but not limited to, land or easements, lift stations, or interceptor mains. Sanitary Sewer Facility excludes lines or mains which are reimbursed from pro rata charges paid by Developers or owners of property in other subdivisions as a condition of connection to or use of such facility.

*Water Facility* means an improvement for providing water supply, treatment and distribution services, including but not limited to, land or easements water treatment facilities, water supply facilities, or water distribution lines. Water Facility excludes water lines or mains which are constructed by Developers the costs of which are reimbursed from prorate charges paid by Developers or owners of property in other subdivisions as a condition of connection to or use of such facility.

*(Ord. No. 476-2009, adopted 11-10-09)*

**8.03 Advisory Committee**

(a) The Capital Improvements Advisory Committee (Advisory Committee) shall consist of seven Persons selected by the City Council, including at least one representative of the real estate, development or building industry who is not an employee or official of a political subdivision or governmental entity. If any impact fee is to be applied in the extraterritorial jurisdiction of the City, a representative from the area shall be appointed by the City Council.

(b) The Advisory Committee serves in an advisory capacity and is established to:

(1) advise and assist the adoption of Land Use Assumptions;

(2) review the Capital Improvements Plan and file written comments;

(3) monitor and evaluate implementation of the Capital Improvements Plan;

(4) file semi-annual reports with respect to the progress of the Capital Improvements Plan and report to the City Council any perceived inequities in implementing the plan or imposing the Impact Fees; and

(5) advise the City staff and Council of the need to update or revise the Land Use Assumptions, Capital Improvements Plan and impact fee.

(c) All professional reports concerning the development and implementation of the Capital Improvements Plan shall be made available to the Advisory Committee.

(d) The Advisory Committee shall elect a chairperson to preside at its meetings and a vice chairperson to serve in their absence.

(e) Periodic Updates Required.

(f) The Land Use Assumptions and Capital Improvements Plan shall be updated at least every five years.

*(Ord. No. 476-2009, adopted 11-10-09)*

**8.04 Impact Fee Required; Exceptions**

(a) Water and sewer Impact Fees shall be assessed for New Development at the time Final Plats for single family residential are released for recordation and due and payable at the time a building permit is issued, or for land platted outside the corporate limits, at the time an application is filed for an individual meter connection to the water or wastewater system. Water and sewer Impact

Fees for other than single family residential shall be assessed at any time and shall be due and payable prior to connection to the City's water or sanitary sewer. Irrigation meters in single family residential are additional Service Units and will be assessed and fees collected at time of connection to the City's water or sanitary sewer. Roadway Impact Fees shall be assessed for New Development at the time Final Plats are released for recordation and due and payable at the time a building permit is issued.

(b) Additional Impact Fees or increases in fees shall not be assessed unless the number of Service Units to be developed on the tract increases. Should the Service Units be increased, Impact Fees shall be increased in an amount equal to the current impact fee per Service Unit multiplied by the difference in the number of Service Units.

(c) Except for Roadway Facilities, Impact Fees may be assessed but not collected for property where service is not available unless:

(1) The City commits to commence construction of necessary facilities identified in the Capital Improvements Plan within two years and have service available in five years; or

(2) The City agrees in writing to permit the owner of the property to construct or finance the Capital Improvement or Facility Expansion and agrees that the costs incurred or funds advanced will either:

(i) be credited against the Impact Fees otherwise due from New Development; or

(ii) reimburse the owner for such costs from Impact Fees paid from other New Developments that will use such Capital Improvements of Facility Expansions, in which case fees shall be reimbursed to the owner at the time collected as other New Development plats are recorded; or

(iii) the owner voluntarily requests that the City reserve capacity to serve future development and enters into a valid written agreement.

(d) The owner of property for which there is a recorded plat may enter into an agreement with City providing for the time and method of payment of Impact Fees, which agreement shall prevail over the provisions of this section.

**8.05 Calculation of Impact Fees**

(a) Impact Fees for water and sanitary sewer wastewater shall be determined by multiplying the number of Service Unit equivalents in the proposed development by the amount per Service Unit equivalent due by referring to Schedules A – Water/Wastewater Equivalency Table and Schedule B-Impact Fee Rates, as set forth in Anna Code, Part IV, Schedule of Fees, Article 7, Section 14.

*(Ord. No. 476-2009, adopted 11-10-09)*

**8.06 Credits**

(a) Any construction of, contributions to, or dedications of any facility appearing on the Capital Improvements Plan which is required by the City to be constructed by the owner as a condition of development shall be credited against the Impact Fees otherwise due from the development. Credit for Impact Fees due an owner in one category of Impact Fees may not be used to offset Impact Fees in another category.

(b) As an alternative to the foregoing, the City and owner may enter into an agreement providing that, in addition to the Credit, owner will be reimbursed for all or a portion of the costs of such facilities from Impact Fees received from other New Developments that will use such Capital Improvements of Facility Expansions.

(c) An owner shall be entitled to a Credit against any category of Impact Fee provided in any written agreement between the City and the owner.

(d) No Credit for construction of any facility shall exceed the total amount of Impact Fees due from the development for the same category of improvements.

**8.07 Accounting for Fees and Interest**

(a) All Impact Fees collected shall be deposited in interest-bearing accounts clearly identifying the category of Capital Improvements or Facility Expansions within the Service Area for which the fee is adopted.

(b) Interest earned will be credited to the account and is subject to the same restrictions on expenditures as the funds generating such interest.

(c) Impact Fees and the interest earned thereon may be expended only for the purposes for which such fees were imposed as shown in the Capital Improvements Plan.

(d) The records of the accounts into which Impact Fees are deposited shall be open for public inspection and copying during ordinary business hours.

*(Ord. No. 476-2009, adopted 11-10-09)*

**8.08 Refunds**

(a) On the request of an owner of property on which an Impact Fee has been paid, Impact Fees shall be refunded if existing facilities are available and service is denied, or, if the City failed to commence construction of facilities required for service within two years of payment of the fee, or if construction is not complete within a reasonable time considering the type of Capital Improvements or Facility Expansion to be constructed, but not in any event more than five years from date of payment of the fee.

(b) Any Impact Fee funds not expended within 10 years after payment shall be refunded.

(c) Refunds shall bear interest calculated from the date of collection to the date of refund at the statutory rate set forth in Section 302.002 TEX. FIN. CODE or its successor statutes.

(d) All refunds will be made to the owner of record at the time the refund is paid. If, however, the Impact Fees were paid by another political subdivision or governmental entity, payment shall be made to the political subdivision or governmental entity.

*(Ord. No. 502-2010, adopted 7/27/2010)*

**8.09 Appeals**

Upon written application of the owner of property upon which Impact Fees were assessed, the City Council shall consider appeals to the interpretations of or errors in the application of the Impact Fee regulations or schedules used to calculate the Fees or Credits.

### 8.10 Local Restrictions

Under a duly adopted development agreement the City Council may, for the purpose of promoting economic development within the City, forgo its entitlement to collect some or all of the impact fees that would otherwise become subject to collection under this Section 8.

*(Ord. No. 138-2004, adopted 4/27/2004) (Ord. No. 476-2009, adopted 11-10-09) (Ord. No. 502-2010, adopted 7/27/2010)*

## Section 9. Reserved

*(Ord. No. 519-2010, adopted 10/26/2010)*

## Section 10. Prevailing Wage Regulations for Public Works Contracts

### 10.01 Applicability

(a) This Section 10 applies only to the construction of a public work, regardless of cost, value or scope. For purposes of this Section 10, "public work" includes a building, highway, road, excavation, or repair work or other project development or improvement, paid for in whole or in part from public funds, without regard to whether the work is done under public supervision or direction.

(b) This Section 10 does not apply to work done directly by a public utility company under an order of a public authority or to work that is reasonably considered to be ordinary maintenance.

(c) Section 10.6 shall only apply when the City has a population of more than 10,000.

### 10.02 Determination of Prevailing Wages

The prevailing wages for the City of Anna with respect to construction types Heavy, Highway, Building, and Residential, as applicable, are hereby determined to be the same as the sums certain of prevailing wages for Collin County as determined by the United States Department of Labor in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a et seq.), and its subsequent amendments, as of the due date and time for submission to the City of the bid(s), proposal(s), offer(s), or any other type of submittal(s) for the award of a public works contract. Such applicable sums certain are incorporated herein as if set forth in full for all purposes.

### 10.03 Subsequent Changes to Prevailing Wages

Once a public works contract is awarded by the City, the City's prevailing wage determination referenced in Section 10.02 of this article shall be effective for the duration of a public works contract regardless of changes to the prevailing wage subsequently made by United States Department of Labor. If the City rejects all submittals for the award of a public works contract and later readvertises the same or similar contract, a new determination of the prevailing wages shall be deemed made in accordance with Section 10.02 of this article.

### 10.04 Prevailing Wage Reference in Contract Documents

A Copy of the determination made by the City Council under Section 10.02 of this article or of the current revised determination of prevailing rate of wages then in effect shall be attached to all contract bidding instructions and contract specifications, or shall be incorporated into such documents by specific reference thereto.

### 10.05 Records of Contractor and Subcontractor

(a) Any contractor and subcontractor for any project to which this Section 10 applies shall keep a record showing:

(1) the name and occupation of each worker employed by the contractor or subcontractor in the construction of the public work; and

(2) the actual per diem wages paid to each worker.

(b) The record shall be open at all reasonable hours to inspection by the City's officers and agents.

### 10.06 Civil Penalty for Failure to Pay Prevailing Wages

(a) The contractor who is awarded a contract by the City or a subcontractor of such contractor shall pay not less than the prevailing wages determined under Section 10.02 of this Section 10 to a worker employed by it in the performance of the contract.

(b) A contractor or subcontractor who violates subsection (a) shall pay to the City $60 for each worker employed for each calendar day or part of the day that the worker is paid less than the prevailing wage rates stipulated in the contract. This civil penalty shall be cumulative of any other applicable penalties or remedies, whether civil or criminal in nature.

(c) Subject to Section 10.09(b), the City shall use any money collected under this Section 10 to offset the costs incurred in the administration of these regulations.

### 10.07 Withholding Payment Upon Submission of Complaint

Upon receipt of a written complaint from a worker that a contractor or subcontractor has failed to pay the worker in at the least the amount of the prevailing wages determined by the City—which such complaint must describe all facts made the basis of the complaint and be signed by and sworn to before a notary public—the City shall withhold money forfeited or required to be withheld under this Section 10 from the payments to the contractor under the contract, except that the City shall not withhold money from other than the final payment without a determination by the City Council that there is good cause to believe that the contractor has violated this Section 10.

### 10.08 Hearing of Complaint

(a) On receipt of a complaint made by a worker that meets the requirements of Section 10.07, the City Council shall make an initial determination as to whether good cause exists to believe that the violation occurred.

(b) The City Council must make its determination under subsection (a) before the 31st day after the date the City receives the complaint.

(c) The City shall notify in writing the contractor or subcontractor and any affected worker of its initial determination.

(d) The City shall retain any amount due under the contract pending a final determination of the violation.

### 10.09 Final Determination of Violation and Payment to Worker

(a) If the City Council determines that good cause exists to believe that a violation occurred, the final determination regarding the violation shall be adjudicated by an

arbitrator in accordance with the provisions of Texas Government Code Section 2258.053-055, as amended.

(b) If the arbitrator finds that a violation has occurred, the City shall use any amounts retained under this Section 10 to pay the worker the difference between the amount the worker received in wages for labor on the public work at the rate paid by the contractor or subcontractor and the amount the worker would have received at the general prevailing wage rate as provided in the arbitrator's award.

(c) The City may, in its discretion, determine whether to pay the worker the retained amounts in a lump sum payment or in a series of regular installment payments, provided that the City pays to the worker all amounts that it is required to pay toward the satisfaction of the arbitrator's award within six months of receiving actual notice and a certified copy of the arbitrator's award. If the City has retained amounts in excess of the arbitrator's award, the City shall refund those amounts to the contractor or subcontractor in question after deducting an amount equal to its reasonable costs and fees incurred as a result of the violation.

(d) If the amounts retained by the City under this Section 10 are not sufficient for the City to pay the worker the full amount owed, the worker has a right of action against the contractor or subcontractor and the surety of the contractor or subcontractor to recover the amount owed, reasonable attorney fees, and court costs.

*(Ord. No. 519-2010, adopted 10/26/2010)*

## Article 50 MANAGEMENT OF PUBLIC RIGHTS-OF-WAY

### Section 1. Definitions

For the purpose of this article, the following words shall be defined herein below:

*City* means the City of Anna, Texas, or its designated agent of the City.

*Construction* means any work performed above the surface, on the surface or beneath the surface of a Public Right-Of-Way, including, but not limited to, installing, servicing, repairing, upgrading, or modifying any Facility(s) in, above or under the surface of the Public Right-Of-Way, and restoring the surface and subsurface of the Public Right-Of-Way, subject to the provisions of Section 10. The word "Construction" does not include the installation of Facilities necessary to initiate service to a customer's property, or the repair or maintenance of existing Facilities unless such installation, repair or maintenance requires the breaking of pavement, excavation or boring.

*Construction Security* means any of the following forms of security provided at the Owner's option:

(1) Individual project or performance bond;

(2) Cash deposit;

(3) Security of a form listed or approved under State of Texas Statutes; or

(4) Letter of credit, in a form acceptable by City.

*Department* means the public works Department of the City.

*Director* means the Director of the Public Works Department of the City or his or her designee, or another Person authorized by the City Manager to act as the Director.

*Driveway* means a vehicular access way designed and intended to serve as access from a public roadway to a lot or parcel of land adjacent to the public roadway.

*Emergency* means a condition that: (1) poses a clear and immediate danger to life or health, or an immediate and significant loss of property; or (2) requires immediate repair or replacement of Facilities in order to Restore service to a customer.

*Facility* or *Facilities* shall include, but not be limited to, any and all cables, pipelines, splice boxes, tracks, tunnels, utilities, vaults, and other appurtenances or tangible things owned, leased, operated, or licensed by an Owner or Owners, that are located or are proposed to be located in a Public Right-Of-Way.

*Major Thoroughfares* mean U.S. 75, S.H. 5, S.H. 121, FM 455, the Collin County Outer Loop, and any other major highways designated on the City's comprehensive plan.

*Municipal Authorization* means the grant issued by the City and accepted by an individual Owner to use the Public Rights-Of-Way in accordance with the ordinances of the City, a franchise agreement, a license, or under operation of state law which provides a specific grant of authority to use the Rights-Of-Way.

*Owner* means any Person who owns any Facility or Facilities that are installed or are proposed to be installed or maintained in the Public Right-Of-Way. Included within this definition is the Owner's contractor, subcontractor, agent or authorized representative.

*Permit* or *Construction Permit* means authorization or a Permit issued by the City to perform Construction in accordance with this article.

*Person* means any natural or corporate Person, business association or other business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision (excluding the City), a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.

*Right(s)-Of-Way* or *Public Right(s)-Of-Way* means the area of land within the City that is acquired by, dedicated to, or claimed by the City in fee simple, by easement, or by prescriptive right and that is expressly or impliedly available, accepted or used in fact or by operation of law as a public roadway, high, street, sidewalk, alley, or drainage or utility easement. The term includes the area on, below, and above the surface of the Public Right-Of-Way. The term applies regardless of whether the Public Right-Of-Way with regard to wireless telecommunications.

*Restore* or *Restoration* means the process by which a Public Right-Of-Way is returned to a condition that is equal to or better than the condition that existed before Construction.

### Section 2. Right-Of-Way Occupancy

**2.01** Any Person prior to constructing Facilities in, on or over the Public Rights-Of-Way, must first obtain separate Municipal Authorization.

**2.02** This article does not constitute or create authority to place, reconstruct, or alter Facilities in, on or over the Rights-Of-Way nor to engage in Construction, excavation, encroachments, or work activity within or

upon any Public Right-Of-Way, and said authority must be obtained in accordance with the terms of this article.

**2.03** Any Person with a current, unexpired franchise, Municipal Authorization, license or other authorization from the City or state to use the Public Right-Of-Way that is in effect at the time this article takes effect, shall continue to operate under and comply with that grant, and in the event this ordinance conflicts with existing authorization, the more restrictive provision shall apply.

**2.04** Regardless of any prior existing unexpired franchise, Municipal Authorization, license or other authorization from the City or State to use the Public Right-Of-Way, an Owner shall be required to obtain a Permit prior to performing any Construction within a Public Right-Of-Way, except in the case of an emergency as governed under Section 4.01(b) of this article.

**Section 3. Registration**

**3.01** In order to protect the public health, safety and welfare, all Owners of Facilities in the Right-Of-Way will register with the City. Registration and Permits will be issued in the name of the Person who owns or will own the Facilities. Registration must be renewed on or before January 31 of each year. If a registration is not renewed, and subject to 60 calendar days notification to the Owner, the Facilities of the Owner will be deemed to have been abandoned. When any information provided for the registration changes, the Owner will inform the City of the change no more than 30 days after the date the change is made. Registration shall include:

(a) the name(s), address(es) and telephone number(s) of the Owner(s);

(b) the name(s), address(es) and telephone number(s) of the contact Person(s) for the Owner;

(c) the name(s), address(es and telephone number(s) of any contractor(s) or subcontractor(s) who will be working in the Right-Of-Way on behalf of the Owner. If the names of contractors and subcontractors are not available at the time of Registration, they must be submitted to the City prior to Permit issuance;

(d) proof of insurance and bonds as required in Section 14 of this article;

(e) The name(s) and telephone number(s) of an emergency contact who shall be available 24 hours a day;

(f) The source of the Owner's Municipal Authorization (e.g., franchise, state law, etc.). If the Owner is a certificated telecommunications provider, the certificate number issued by the Texas Public Utility Commission; and

(g) The Owner's two-year projections of plans for the Construction of Facilities in the City at the time of registration renewal.

**3.02** Registration shall be a prerequisite to issuance of a Construction Permit. Each Owner shall update and keep current the registration with the City at all times.

**Section 4. Construction Permits**

**4.01 General**

(a) An Owner shall not perform any Construction or installation of Facilities in the Public Right-Of-Way without first obtaining a Construction Permit, except as provided herein.

(b) Emergency Construction related to existing Facilities may be undertaken without first obtaining a Permit; however, the Department shall be notified in writing within two business days of any Construction related to an Emergency response; including a reasonably detailed description of the work performed in the Right-Of-Way. An updated map of any Facilities that were relocated, if applicable, shall be provided to the Department within 90 days.

(c) A Permit is not required under subsection (a) if the activity in the Public Right-Of-Way consists exclusively of:

(1) a residential service connection on the same side of the Public Right-Of-Way, if the connection does not require a pavement cut; or

(2) the replacement of a single damaged pole.

(d) Unless approved by the Director, the Owner or contractor shall not close any traffic lanes or otherwise impede traffic on Major Thoroughfares during the morning or evening rush hours on weekdays during the hours of 7:00 a.m. to 9:00 a.m. or 3:30 p.m. to 6:30 p.m. Any closure of a traffic lane for more than four hours during any non-peak traffic period shall also require a Permit unless waived by the Director.

(e) All Construction in the Right-Of-Way shall be in accordance with the Permit for the Facilities. The Director shall be provided access to the work and to such further information as he or she may reasonably required to ensure compliance with the Permit.

(f) A copy of the Construction Permit and approved Construction plans shall be maintained at the Construction site and made available for inspection by the Director at all times when Construction work is occurring.

(g) All Construction work authorized by Permit must be completed in the time specified in the Construction Permit. If the work cannot be completed in the specified time periods, the Owner may request an extension of the time period from the Director. The Director will use his/her best efforts to approve or disapprove a request for Permit as soon as possible. If the request for the extension is made prior to the expiration of the Permit, work may continue while the request is pending.

(h) Construction, excavation, or work area. No Owner or contractor shall perform Construction, excavation, or work in an area larger or at a location different than that specified in the Permit or Permit application. If, after Construction, excavation, or work is commenced under an approved Permit it becomes necessary to perform Construction, excavation, or work in a larger or different area than originally requested under the application, the Owner or contractor shall notify the Director immediately and, within 24 hours, shall file a supplementary application for the additional Construction, excavation, or work.

(i) A copy of any Permit or approval issued by federal or state authorities for work in federal or state Rights-Of-Way located in the City shall be provided, if requested by the Department.

**4.02 Permit Application**

(a) The Permit shall state to whom it is issued, location of work, location of Facilities, dates and times work is to take place and any other conditions set out by the Director. If the Owner fails to act upon any Permit within 90 calendar days of issuance, the Permit shall become invalid, and the Owner will be required bo obtain another Permit. No Permit shall be transferable.

(b) The Permit will be in the name of the Person who will own the Facilities to be constructed. The Permit application must be completed and signed by an authorized representative of the Owner of the Facilities to be constructed.

(c) Any Person requesting a Permit will provide the Director with documentation in the format specified by the Department, at the time of Permit application submittal, including:

(1) the proposed location and route of all Facilities to be constructed or installed and the Owner's plan for Right-Of-Way Construction;

(2) three sets of engineering plans, including plan and profile, which will be on a reasonable scale acceptable to the Department, unless waived by the Director (provided, however, that when required by the Texas Engineering Practice Act, as amended, the plans must be sealed by a professional engineer licensed to practice in the State of Texas;

(3) detail of the location of all Rights-Of-Way (including utility easements) that the Owner plans to use;

(4) detail of existing utilities located in the Right-Of-Way, including the City's utilities, in relationship to Owner's proposed route;

(5) detail of what Owner proposes to construct including size of Facilities and materials used (such as pipe size, number of ducts, valves, etc);

(6) detail of plans to remove and replace asphalt or concrete in streets, and details for Restoration within Public Right-Of-Way;

(7) drawings of any bores, trenches, handholes, manholes, switch gear, transformers, pedestals, etc. including depth located in Public Right-Of-Way;

(8) typical details of manholes and/or handholes Owner plans to use or access;

(9) complete legend of drawings submitted by Owner, which may be provided by reference to previously submitted documents acceptable to the City;

(10) the Construction methods to be employed for the protection of existing structures, fixtures, and Facilities within or adjacent to the Right-Of-Way, and the dates and times work will occur, all of which (methods, dates, times, etc.) are subject to approval of the Director; and

(11) proof of insurance and bonds as required by Section 14 of this article.

(d) A request for a Permit must be submitted at least 15 business days before the proposed commencement of work identified in the request, unless waived by the Director.

(e) Requests for Permits will be approved or disapproved by the Director within a reasonable time of receiving all the necessary information. The Director will use his/her best efforts to approve or disapprove a request for Permit as soon as possible. The Director will consider all information submitted by the applicant including a review of the availability of space in the Right-Of-Way based on the applicant's proposed route and location. The Director will provide a written notification of denial for rejected Permits.

(f) The Department or the Owner can request a pre-Construction meeting with the Construction contractor.

**Section 5. Construction Standards**

**5.01** All Construction shall be in conformance with all City codes and applicable local, state and federal laws.

**5.02** The Department must be notified two business days in advance that Construction is ready to proceed by either the Owner, its contractor or authorized representative. At the time of notification, the Owner will inform the Department of the number (or other information) assigned from the appropriate one-call Notification center. "Notification center" means the same as in V.T.C.A., Utilities Code Ch. 251, or its successor. The Owner will further provide to the Department the name, address and phone numbers of the contractor or subcontractor who will perform the actual Construction, including the name and telephone number of an individual with the contractor who will be available at all times during Construction. Such information shall be required prior to the Commencement of any work.

**5.03 Public Notification**

(a) For any closure of a traffic lane or blocking of a sidewalk or alley lasting six days or less, the Permittee shall conspicuously mark its vehicles with the Permittee's name and telephone number.

(b) For projects scheduled to last more than seven calendar days, a three feet by three feet informational sign stating the identity of the Person doing the work, a local telephone number and Owner's identity shall be placed at the location where Construction is to occur 48 hours prior to the beginning of work in the Right-Of-Way and shall continue to be posted at the location during the entire time the work is occurring. The informational sign will be posted on the Public Right-Of-Way 100 feet before the Construction location commences, unless other posting arrangements are approved or required by the Director.

(c) When projects last more than seven calendar days, the Owner shall also provide written notification to all adjacent property occupants 48 hours prior to the beginning of Construction. Informational fliers shall include the Person doing the work, a local telephone number, Owner's identity, and proposed schedule.

**5.04** Erosion control measures (e.g. silt fence) and advance warning signs, markers, cones and barricades must be in place before work begins.

**5.05** Lane closures on Major Thoroughfares will be limited to one lane between 9:00 a.m. and 3:30 p.m. unless the Director grants prior approval. Arrow boards will be required for lane closures on all arterials and collectors, with all barricades, advanced warning signs and 36 inch reflector cones placed according to the Texas Manual on Uniform Traffic Control Devices.

**5.06** Without affecting the legal relationship between the Owner and their contractor, Owners are responsible for the workmanship of, and any damages caused by, their contractors or subcontractors. A responsible representative of the Owner will be available to the Department at all times during Construction.

**5.07** Owner shall be responsible for storm water management, erosion control and excavation safety measures that comply with City, state and federal guidelines. Requirements shall include, but not be limited to, Construction fencing around any excavation that will be left overnight, silt fencing in erosion areas until reasonable vegetation is established, barricade fencing around open holes, and high erosion areas will require wire backed silt fencing. Upon request, Owner may be required to furnish documentation submitted or received from federal or state government.

**5.08** Owner or contractor or subcontractor will notify the Department immediately of any damage toother utilities, whether publicly or privately owned.

**5.09** It is the City's policy not to cut streets or sidewalks; however, except in case of Emergency when a street or sidewalk cut is required, prior approval must be obtained from the Department and all requirements of the Department shall be followed in all street and sidewalk cuts. Repair of all street and sidewalk removals must be made promptly to avoid safety hazards to vehicle and pedestrian traffic, and shall be in accordance with Exhibit A, Standard Specifications and details for Restoration within Public Rights-Of-Way.

**5.10** Installation of Facilities must not interfere with City utilities, in particular gravity dependent Facilities. Facilities shall not be located over, or within three feet, horizontally or vertically, of any water or sanitary sewer mains, unless approved by the Director.

**5.11** New Facilities must be installed to a minimum depth required by state and federal codes and standards.

**5.12** All directional boring shall have a locator place bore marks and depths while the bore is in progress. Locator shall place a mark at each stem with a paint dot and depth at least every other stem.

**5.13** No directional boring zones. In the City, the public infrastructure must be maintained and protected by all Owners and contractors. The public health, safety and welfare is at risk when damages to water and sewer mains occur. To protect the water and sewer system, no Person, agency, or contractor will be allowed to directionally bore longitudinally with water mains that are larger than eight inches and sewer mains that are eight inches or larger, unless this requirement is waived in writing by the Director. The installation of Facilities in the Public Rights-Of-Way or easements will be installed by open excavation to assure the protection of the City's water and sewer system.

**5.14** Hours of Operation for Non-Emergency Work. Construction may not start earlier than 7:00 a.m. on weekdays nor continue after dark without prior permission from the City Manager or his/her designee. Construction on Saturday may not start before 7:00 a.m. and must be approved by the Director by noon on the Thursday prior to the proposed Saturday. Work on Sunday is prohibited without special permission by the City Manager or his/her designee. An after-hours fee must be paid to the City prior to Saturday work, if City inspection is required. The Saturday inspection fee must be paid prior to noon on Thursday prior to the Saturday on which the work is to be performed. Construction work on recognized City holidays is prohibited.

**5.15** Persons working in Public Rights-Of-Way are responsible for obtaining line locates from all affected utilities or others with Facilities in the Right-Of-Way prior to any excavation. Use of a geographic information system or the plan s of records does not satisfy this requirement.

**5.16** The Owner of any Facilities located within Public Rights-Of-Way is required to mark the location of such Facilities when requested by the City. Location and marking of said Facilities shall occur with six hours of an Emergency request, and within three days of a non-emergency request.

**5.17** Owner will be responsible for verifying the location, both horizontal and vertical, of all Facilities. When required by the Department, Owner shall verify locations by pot holing, hand digging or other method approved by the Department prior to any excavation or boring.

**5.18** Placement of all manholes and/or handholes must be approved in advance by the Department. Handholes or manholes will not be located in sidewalks, unless approved by the Director.

**5.19** Locate flags shall not be removed from a location while Facilities are being constructed.

**5.20** When Construction requires pumping of water or mud, the water or mud shall be contained in accordance with federal and state law and the directives of the Department.

**5.21** A Person shall perform operations, excavations and other Construction in the Public Rights-Of-Way in accordance with all applicable City requirements, including the obligation to use trenchless technology whenever commercially economical and practical and consistent with obligations on other similar users of the Public Right-Of-Way. The City shall waive the requirements of trenchless technology if it determines that the field conditions warrant the waiver, based upon information provided to the City by the Person. All excavations and other Construction in the Public Rights-Of-Way shall be conducted so as to minimize interference with the use of public and private property. A Person shall follow all reasonable Construction directions given by the City in order to minimize any such interference.

**5.22** All Construction shall conform to the City of Anna Tree Preservation Regulations, Part III-F of the Anna Code.

**5.23** Excavation safety. On the Construction projects in which excavation will exceed a depth of five feet, the Owner must provide the City with detailed plans and specifications for excavation safety systems before commencing Construction. The term "excavation" includes trenches, structural features or any Construction that has earthen excavation subject to collapse. The excavation safety plan shall be designed in conformance with state law and occupational safety and health administration (OSHA) standards and regulations.

**5.24** Confined Space. On Construction projects that involve entry into a "confined space" or "permit-required confined space" as said terms are defined under 29 CFR §1910.146(b), as amended, the Owner shall comply with Section 20 (Confined Space Safety Requirements) of Part II, Article 8 (Building Regulations) of the Anna Code and with all related City regulations and applicable state and federal law.

**Section 6. As-Built Plans**

**6.01** Right-Of-Way users will provide the Director with "as-built plans" within 90 days of completion of Facilities in the Right-Of-Way. The plans shall be provided to the City with as much detail and accuracy as required by the Director. All the requirements specified for the plans submitted for the initial Permit, as set forth in Section 4.02(c) of this article shall be submitted and updated in the as-built plans. Users which have Facilities in the Right-Of-Way existing as of the date of this article who have not provided as built plans shall provide ¼ of the information concerning Facilities in City Right-Of-Way within one year after the passage of the article and ¼ each six months thereafter. The detail and accuracy will concern issues such as location, size of Facilities, materials used, and any other health, safety and welfare concerns. Submittal of as-built plans shall be in digital format compatible with City hardware and software or shall be subject to a conversion fee. Owner shall include one set of plans in a paper format.

**6.02** If as-built plans submitted under this section include information expressly designated by the Owner as a trade secret or other confidential information protected from disclosure by state law, the Director may not disclose that information to the public without the consent of the Owner, unless otherwise compelled by an opinion of the attorney general pursuant to the Texas Public Information Act, V.T.C.A. Government Code Ch. 552, as amended, or by a court having jurisdiction of the matter pursuant to applicable law. This subsection may not be construed to authorize as Owner to designate all matters in its as-built plans as confidential or as trade secrets.

**6.03** The requirements set forth in Section 6.01, or portions of said requirements, may be waived by the Director for good cause.

**Section 7. Conformance with Public Improvements**

**7.01** Whenever by reasons of widening or straightening of streets, sidewalks, water or sewer line projects, or any other City project, it shall be deemed necessary by the governing body of the City to remove, alter, change, adapt, or conform an Owner's underground or overhead Facilities within the Right-Of-Way to another part of the Right-Of-Way, such alterations shall be made by the Owner of the Facilities at the Owner's expense (unless provided otherwise by state law, a franchise, a license or a Municipal Authorization until that grant expires or is otherwise terminated). The Owner shall be responsible for conforming its Facilities within mutually agreed upon time limits. If no time limits can be agreed upon, the time limit shall be 90 days from the day the City secures any additional Right-Of-Way and transmits final plans and notice to make the alterations. The Owner of Facilities shall be responsible for any direct costs associated with project delays associated with failure to conform Facilities within the mutually agreed upon time limits. Reimbursement for all costs provided for by this subsection shall be made within 30 calendar days.

**7.02** An Owner may trim trees in or over the Public Rights-Of-Way for the Safe and reliable operation, use and maintenance of its Facilities. All tree trimming shall be performed in accordance with standards promulgated by the National Arborist Association and the International Society of Arborculture. Should the Owner, its contractor or agent, fail to remove such trimmings within 24 hours, the City may remove the trimmings or have them removed, and upon receipt of a bill from the City, the Owner shall promptly reimburse the City for all costs incurred within 30 days.

**7.03** An Owner shall temporarily remove, raise or lower its aerial Facilities to Permit the moving of houses or other bulky structures. The Owner shall temporarily remove, raise or lower its aerial Facilities within 15 working days of receiving a copy of a Permit issued by the City. The expense of these temporary rearrangements shall be paid by the party or parties requesting and benefiting from the temporary rearrangements. The Owner may require prepayment or prior posting of a bond from the party requesting the temporary move.

**Section 8. Improperly Installed Facilities**

**8.01** Any Owner doing work in the City Right-Of-Way shall properly install, repair, upgrade and maintain Facilities.

**8.02** Facilities shall be considered to be improperly installed, repaired, upgraded or maintained if:

(a) the installation, repair, upgrade or maintenance endangers people or property;

(b) the Facilities do not meet the applicable City codes;

(c) the Facilities are not capable of being located using standard practices; or

(d) the Facilities are not located in the proper place at the time of Construction in accordance with the directions provided by the Department or the plans approved by the Department.

**Section 9. Location of Utility Structures**

**9.01** Utility structures not exceeding 20 cubic feet are allowed in the Right-Of-Way or utility easements, subject to available room and located as approved by the Director. The placement of utility structures larger than 20 cubic feet, but not exceeding 30 cubic feet will be reviewed on a case-by-case basis by the Director. Such structures shall not encroach within a sidewalk area, including a vertical clearance of 7.5 feet above the sidewalk or within the sight visibility area.

**9.02** Utility structures larger than 30 cubic feet shall be located as close as practical to the back of a public or private utility easement and subject to available room and located as approved by the Director.

**9.03** Above-ground Facilities such as pedestals, switching boxes and similar Facilities shall be located no less than three feet from the edge of an alley or the back of street curbs and such that they do not create a physical or visual barrier to vehicles leaving or entering roads, Driveways or alleys. Such Facilities shall not be located in front of residential lots in a manner that creates an

unreasonable visual or aesthetic impairment (as determined by the Director) for the property owner.

**9.04** The Owner's identity and telephone number shall be placed on all utility structures placed in the Rights-Of-Way.

**Section 10. Restoration of Property**

**10.01** Owners shall Restore property affected by Construction of Facilities to a condition that is equal to or better than the condition of the property prior to the performance of the work. Owners shall submit photographs and/or a video of the Construction area at the time of the issuance of the Permit. Restoration must be approved by the Department.

**10.02** Restoration must be made within ten working days of completion of trench backfill for a length of 300 feet, or within the limits of one City block, unless otherwise approved by the Director. If Restoration is not satisfactory and performed in a timely manner, after written notice, then all work in progress, except that related to the problem, including all work previously permitted but not complete may be halted and a hold may be placed on any future Permits until all Restoration is complete.

**10.03** Upon failure of an Owner to perform such Restoration, and five days after written notice has been given to the Owner by the City, and in the event Restoration has not been initiated during such five-day period, the City may repair such portion of the Public Rights-Of-Way as may have been disturbed by the Owner, its contractors or agents. Upon receipt of an invoice from the City, the Owner will reimburse the City for the Costs so incurred within 30 calendar days from the date of the City invoice.

**10.04** If the City determines that the failure of an Owner to properly repair or Restore the Public Rights-Of-Way constitutes a safety hazard to the public, the City may undertake Emergency repairs and Restoration efforts, after Emergency notice has been provided, to the extent reasonable under the circumstances. Upon receipt of an invoice from the City, the Owner shall promptly reimburse the City for the costs incurred by the City within 30 calendar days, the City shall initiate a claim for compensation with the appropriate bonding company.

**10.05** Should the City reasonably determine, within two years from the date of the completion of the repair work, that the surface, base, irrigation system or landscape treatment requires additional Restoration work to meet the standards of subsection 10.01, an Owner shall perform such additional Restoration work to the satisfaction of the City, subject to all City remedies as provided herein or available at law or in equity.

**10.06** Restoration must be to the reasonable satisfaction of the Department. The Restoration shall include, but not be limited to:

(a) replacing all ground cover with the type of ground cover damaged during work to a condition equal to or better either by sodding or seeding, or as directed by the Department;

(b) adjusting of all manholes and handholes, as required;

(c) backfilling all bore pits, potholes, trenches or any other holes shall be completed daily, unless other safety requirements are approved by the Department. Holes with only vertical walls shall be covered and secured to prevent entry. If bore pits, trenches or other holes are left open for the continuation of work, they shall be fenced and barricaded to secure the work site as approved by the Department;

(d) leveling of all trenches and backhoe lines;

(e) Restoration of excavation site to City specifications;

(f) Restoration of all paving, sidewalks, landscaping, ground cover, trees, shrubs and irrigation systems;

(g) removal of all locate flags during the cleanup process by the Owner or his/her contractor at the completion of the work.

**Section 11. Revocation or Denial of Permit**

If any of the provisions of this article are not followed, a Permit may be revoked by the Director or his/her designee. If a Person has not followed the terms and conditions of this article in work done pursuant to a prior Permit, new Permits may be denied or additional terms required. Revocation shall be effective upon the expiration of 15 days after written notice of the violation(s), unless cured during that period, except for violations which pose a threat to public safety or health, for which the revocation will be immediate upon delivery of written notice.

**Section 12. Appeals**

**12.01** Applicability. Appeals may be filed pursuant to this section for decisions of the Director related to the Denial, suspension, or revocation of a Permit. However, the appeal process provided by this section shall not be available for criminal violations of this article.

**12.02** Appeal to City Manager. A permittee may appeal decisions referred to in subsection 12.01 by filing a written appeal with the City Manager within seven working days of receipt of denial, suspension, or revocation of the Permit. An appeal filed pursuant to this section shall specifically state the basis for the aggrieved party's challenge to the City's authority under this article, including but not limited to citations to all statutes, regulations, decisions, rulings and other law or legal authority upon which a permittee relies.

**12.03** Issuance of decision by City Manager. Decisions of the City Manager shall be issued within five business days of receipt of the written appeal. Decisions of the City Manager shall be final.

**Section 13. Indemnity**

**13.01** Each Owner placing facilities in the Public Rights-Of-Way shall promptly defend, indemnify and hold the City harmless from and against all damages, costs, losses or expenses: (i) for the repair, replacement, or Restoration of City's property, equipment, materials, structures and Facilities that are damaged, destroyed or found to be defective as a result of the Owner's acts or omissions; and (ii) from and against any and all claims, demands, suits, causes of action, and judgments for (a) damage to or loss of the property of any Person (including, but not limited to the City's or the Owner's respective agents, officers, employees, and any third parties); and/or (b) death, bodily injury, illness, disease, loss of services, or loss of income or wages to any Owner (including, but not limited to the City's or the Owner's respective agents, officers, employees and subcontractors, and any third parties) arising out of, incident to, concerning or resulting

from the negligent or willful act or omissions of the Owner, its agents, employees, and/or subcontractors, in the performance of activities governed under this article.

**13.02** This indemnity provision shall not apply to any liability resulting solely from the negligent or willful acts of the City, its officers, employees, agents, contractors, or subcontractors.

**13.03** The provisions of this indemnity are solely for the benefit of the City and are not intended to create or grant any rights, contractual or otherwise, to an Owner or any other Person.

**Section 14. Insurance and Bonding Requirements**

**14.01 General**

(a) An Owner must provide acceptable proof of insurance in the total amount required by this section for Permits for Construction within Public Rights-Of-Way, or make other provisions acceptable to the Director.

(b) The coverage must be on an "occurrence" basis and must include coverage for personal injury, contractual liability, premises liability, medical damages, underground, explosion, and collapse hazards.

(c) The Owner shall file the required original certificate of insurance prior to the issuance of a Permit. The certificate shall state the policy number; name of the insurance company; name and address of the agent or authorized representative of the insurance company; name, address and telephone number of insured; policy expiration date; and specific coverage amounts.

(d) Owner shall file an annual surety bond, which will be valid for one full year, from a surety company authorized to do business in the State of Texas in the amount equal to the estimated amount of the cost to Restore the Right-Of-Way for the work anticipated to be done in that year, in the event the Owner leaves a job site in the Right-Of-Way unfinished, incomplete or unsafe. Owner may make other provisions, in lieu of a bond, as acceptable to the Director. The Director may waive the requirement if the Owner submits documentation, in a form acceptable to the City Attorney that demonstrates the Owner has assets in excess of $10,000,000.00.

(e) Owner shall file a maintenance bond for 25% of the cost of restoring the Right-Of-Way for the preceding year. Said bond shall be in force for two years. Owner may make other provisions, in lieu of a bond, as acceptable to the Director. The Director may waive the requirement if the Owner submits documentation, in a form acceptable to the City Attorney, that demonstrates the Owner has assets in excess of $10,000,000.00.

(f) The above requirements (a-e) may be met by utilities with a current franchise, license or Municipal Authorization if their current franchise, license or Municipal Authorization adequately provides for insurance or bonds or provides an indemnity in favor of the City.

(g) The City will accept certificates of self-insurance issued by the State of Texas or letters written by the appropriate agency in those instances where the state does not issue such letters, which provide the same coverage as required herein. However, certificates of self-insurance must be approved in advance by the City Attorney.

(h) An insurer has no right of recovery against the City. The required insurance policies shall protect the agency or public infrastructure contractor and include the City as an additional insured. The insurance shall be primary coverage for losses covered by the policies.

(i) Each policy must include a provision that requires the insurance company to notify the City in writing at least 30 days before canceling or failing to renew the policy or before reducing policy limits or coverages.

**14.02 Insurance Requirements**

(a) *Owners.* Each Owner applying for a Permit shall obtain, maintain, and provide proof of each of the following types of insurance and coverage limits:

(1) Commercial general liability on an occurrence form with minimum limits of $5,000,000.00 per occurrence and $10,000,000.00 aggregate. This coverage shall include the following:

Products/completed operations to be maintained for one year;

Personal and advertising injury;

Owners and contractors protective liability; and

Explosion, collapse, or underground (XCU) hazards.

(2) Automobile liability coverage with a minimum policy limit of $1,000,000.00 combined single limit. This coverage shall include all owned, hired, and non-owned automobiles.

(3) Workers compensation and employers liability coverage. Statutory coverage limits for coverage A and $500,000.00 coverage B employer's liability is required.

(b) *Contractors and sub-contractors.* Each contractor and sub-contractor applying for a Permit shall obtain, maintain, and provide proof of insurance for the same types of insurance coverages outlined in subsection 14.02(a) above; however, the policy limits under the general liability insurance shall be $1,000,000.00 per occurrence and $2,000,000.00 aggregate. All other coverage provisions outlined in subsection 14.02(a) above shall apply.

(c) An Owner or contractor that has registered and filed proof of insurance under Section 3 of this article is not required to furnish separate proof of insurance under this section when obtaining a Permit but must comply with all other requirements of this section.

**Section 15. Driveways and other Private Improvements**

**15.01** The requirements and regulations in this section apply to Driveways and other private improvements constructed in the Public Right-Of-Way for the benefit of the adjacent property.

**15.02 Driveways**

(a) A Permit shall be required to construct a Driveway or to reconstruct, alter, or repair any Driveway approach or other related improvement located within a Public Right-Of-Way.

(b) Application for such Permit shall be made by the owner of the adjacent property, who shall represent all parties in interest.

(c) The Permit application shall be in writing on a form provided by the City and shall include a site plan showing in sufficient detail the nature of the work proposed in the application including location, width, and related dimension of the proposed Driveway and related improvements.

(d) The construction, alteration, or repair of a Driveway shall conform to the applicable Construction standards and other related development regulations adopted by the City. The Director may apply other design and Construction criteria as deemed necessary.

(e) The applicant shall furnish all materials necessary for the Construction of the Driveway and appurtenances authorized by a Permit issued under this section . All materials shall be of satisfactory quality, and shall be subject to inspection and approval of the City.

**15.03 Other Private Improvements in Public Rights-Of-Way**

(a) A Permit is required to construct or make private improvements in the Public Right-Of-Way for the benefit of the adjacent property. A Permit shall only be issued where such private improvements are specifically authorized by the laws and regulations of the City.

(b) Permits under this section may be issued and are required for the following private improvements within a Public Right-Of-Way:

(1) To plant or replace landscaping that has been authorized to be placed within the Public Right-Of-Way.

(2) To install or replace outdoor irrigation systems.

(c) Permits are not required to plant or replace turf grass, or to repair an outdoor irrigation system located within a Public Right-Of-Way.

(d) Application for such Permit shall be made by the owner of the adjacent property, who shall represent all parties in interest. The Permit application shall be in writing on a form provided by the City and shall include a site plan showing in sufficient detail the nature of the work proposed in the application including location, width, and related dimension of the proposed improvements.

(e) The following private improvements are prohibited in Public Rights-Of-Way.

(1) Planting any tree, shrub or other plant, except for turf grass and other plants authorized by a landscape plan approved by the City.

(2) Any other private improvement not specifically authorized by the laws and regulations of the City.

**15.04 Maintenance and Repair**

(a) The owner of the adjacent property shall be responsible for the perpetual maintenance and repair of Driveways and other private improvements constructed in the Public Right-Of-Way for the benefit of the adjacent property.

(b) If the City determines that the failure of an adjacent property owner to properly repair or maintain a Driveway or other private improvement within a Public Right-Of-Way constitutes a safety hazard to the public, the City may undertake repairs and Restoration efforts, after notice has been provided to the adjacent property owner, to the extent reasonable under the circumstances. Upon receipt of an invoice from the City, the owner of the adjacent property shall promptly reimburse the City for the costs incurred by the City within 30 calendar days from the date of the City invoice. If payment is not received within the 30 calendar days, the City may file a lien against the adjacent property as outlined in Part II, Article 8, Section 1.10(e) of Anna Code, or take any other action allowed in law or in equity.

**15.05** The requirements in Section Restoration of Property, and Exhibit A, Standard Specifications and Details for Restoration within Public Rights-Of-Way, apply to all work performed in connection with a Permit authorized by Section 15, and any other work related to improvements constructed in the Public Right-Of-Way.

*(Ord. No. 536-2011, adopted 01/25/11)*

**Article 51** Reserved

**Article 52** Reserved

**Article 53** Reserved

**Article 54** Reserved

**Article 55** Reserved

**Article 56** Reserved

## Article 57 TAXATION

**Section 1. Goods in Transit**

Goods-in-transit, as defined under Texas Tax Code § 11.253(a)(2), as amended by Senate Bill 1, enacted by the 82nd Texas Legislature in its First Called Session, shall remain subject to taxation by the City of Anna, Texas.

*(Ord. No. 560-2011, adopted 10/11/2011)*

**Article 58** Reserved

## Article 59 TRAFFIC AND PARKING

**Section 1. General Regulations**

**1.01 Adoption of State Uniform Act Regulation Traffic on Highways**

For the purpose of regulating traffic on the streets, alleys, and thoroughfares of the City of Anna, there is hereby adopted the State Uniform Act Regulating Traffic on Highways, codified as Article 6701d, Vernon's Annotated Civil Statutes, and all other state motor vehicle laws, which act and laws, together with the provisions contained in this section, shall be controlling in the regulation of traffic in the City. A violation of said act or any state motor vehicle law for which the municipal court has jurisdiction shall constitute and be punishable as a violation of this Code.

**1.02 Traffic Control Devices**

(a) All traffic control devices including signs, signals, and pavement or Curb markings installed or used for the purpose of directing and controlling traffic within the City of Anna shall conform with the Texas Manual on Uniform Traffic Control Devices for Streets and Highways, which is published by the State Department of Highways and Public Transportation.

(b) All signs, signals, and markings erected or used by the City of Anna shall be uniform and be located so far as practicable according to the directions shown in the said

manual throughout the City. All existing traffic control devices and those erected in the future by the City being consistent with the manual, state law, and this section, shall be official traffic control devices.

*(Ord. No. 95-03, adopted 2/28/1995)*

**1.03 City Manager to Designate Intersections for Stop and Yield Right-of-Way**

(a) The City Manager is authorized by the City Council from time to time to authorize the installation and maintenance of slop signs and yield right-of-way signs at intersections. The driver of a vehicle approaching a stop sign facing the driver shall bring their vehicle to a complete slop and not proceed until it is safe to do so yielding the right-of-way to any pedestrians crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard.

(b) The driver of a vehicle approaching a yield right-of-way sign that is facing the driver shall, in obedience to such sign, slow down to a reasonable speed for the existing conditions and shall stop, if necessary, and shall yield the right-of-way to any pedestrian crossing the roadway on which he is driving and to any vehicle in the intersection or approaching on another street so closely as to constitute an immediate hazard.

**1.04 Penalty**

Any driver or operator of a motor vehicle who violates any provision of this section shall be deemed guilty of a misdemeanor and upon conviction fined not less than $50 nor more than $500 for each violation hereof, unless otherwise specifically set forth in this Code.

*(Ord. No. 213-2005, adopted 6/28/2005)*

**Section 2. Parking Regulations**

**2.01 Definitions**

*Curb* means a concrete edging built along a Street to form part of a Gutter.

*Gutter* means a low area at the edge of a Street designed with the intent to carry off surface water.

*Street* means a way for vehicular traffic and other public uses, whether designated a Street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place, point, or however otherwise designated.

*(Ord. 228-2005, adopted 9/27/2005)*

**2.02 Parking Restrictions**

(a) Without regard to whether there are any warning signs posted, no Person shall stop, stand, or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device in any of the following places:

(1) on a sidewalk;

(2) in front of a public or private driveway;

*(Ord. No. 95-14, adopted 10/10/1995)*

(3) within an intersection or within 15 feet of an intersection;

*(Ord. 228-2005, adopted 9/27/2005)*

(4) within 15 feet of a fire hydrant, unless otherwise marked;

(5) on a crosswalk;

(6) at an intersection within 30 feet of an existing intersecting Curb line or projection of an intersecting Curb line or projection of an intersecting Curb line, unless otherwise marked;

(7) between a safety zone and the adjacent Curb or within 30 feet of points on the Curb immediately opposite the ends of a safety zone, unless the zone has been indicated a different length by signs or markings;

(8) within 20 feet of the driveway entrance to any fire station;

(9) alongside or opposite any excavation or Street obstruction when stopping, standing, or parking would obstruct traffic;

(10) in the roadway side of any vehicle stopped or parked at the edge or Curb of a Street;

(11) upon any bridge or other elevated structure upon a height or within a Street tunnel or underpass;

(12) at any place where official signs or marking prohibit stopping;

(13) besides any Curb painted red in color.

(b) No Person shall move a vehicle not lawfully under his control into any such prohibited area or away from a Curb such distance as is unlawful.

*(Ord. No. 95-14, adopted 10/10/1995)*

(c) Parking Not to Obstruct Traffic

(1) No Person shall park any vehicle upon a Street. other than an alley, in such manner or under such conditions as to leave available less than 11 feet of the width of the roadway for free movement of vehicular traffic.

(2) In addition, on any Street that is equal to or less than 27 feet in width, no Person shall park any vehicle upon a Street, other than an alley, in such manner or under such conditions that would situate any part of the vehicle away from the Street Curb more than eight feet into the Street.

*(Ord. 228-2005, adopted 9/27/2005)*

(d) Parking in Alleys

(1) No Person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for the free movement of vehicular traffic, and no Person shall stop, stand, or park a vehicle within an alley in such position as to block the driveway to any abutting property.

(2) No Person shall park a vehicle which is not a commercial vehicle as defined in subsection 2.02(f) below within any alley situated in any business district.

(e) Parking on Streets under Repair - In any case where any Street in the City of Anna is being torn up, repaired, paved, or where any work is being done upon the same, making necessary the regulation of traffic thereon, the mayor is hereby authorized to prevent parking either altogether or to any extent deemed wise by him for any certain period of time that he may deem necessary, or to close the Street to traffic altogether for such period of time by erecting thereon official signs with the parking restrictions clearly stated thereon.

(f) Parking of Vehicles Restricted. It shall be unlawful for any Person or any owner to leave, park, or stand any truck-tractor, road tractor, trailer, semi-trailer, bus, or any other commercial motor vehicle bearing commercial license upon any public Street, alley, parkway, boulevard, or public place; provided, this section shall not apply to Street construction, maintenance, and repair equipment, trucks, rollers, and implements, and trucks, equipment, trailers, and vehicles used by public service utility companies engaged in repairing or extending public service utilities, and to motor buses when taking on or discharging passengers at the customary bus stops, and except all other vehicles designated herein when actually parked at a designated loading zone in these areas of limited parking where loading zones are designated; provided, further that this subsection shall not apply to any vehicle defined or designated there in developing a mechanical defect after such vehicle has commenced to run, enroute, making it unsafe to proceed further, and in this even, it shall be lawful to stand or park the vehicle during the time necessary to make emergency repairs.

(g) Parking for Certain Purposes Prohibited - No Person shall park a vehicle upon any Street for the principle purpose of:

(1) displaying such vehicle for sale;

(2) washing, greasing, or repairing such vehicles, except repairs necessitated by an emergency;

(3) displaying for sale or selling any merchandise.

(h) Parking Adjacent to Schools - The mayor is hereby authorized to erect signs indicating no parking upon that side of any Street adjacent to any school property when such parking would interfere with traffic or create a hazardous situation.

(i) Parking in Front of Entrances to Certain Buildings - No Person shall stand or park a vehicle in front of any entrance which provides access to hotels, motels, theaters, skating rinks or to the upper floors of any building two or more stories in height. Such entrances shall remain open for fire or other emergency purposes.

(j) Parking Prohibited on Narrow Streets - The mayor is hereby authorized to erect signs indicating no parking upon any Street when the width of the roadway does not exceed 20 feet or upon one side of a Street as indicating by such signs when the width of the roadway does not exceed 30 feet. When official signs prohibiting parking are erected upon narrow Streets as authorized herein, no Person shall park a vehicle upon any such Street in violation of any such signs.

(k) Standing or Parking on One-Way Roadways - In the event a highway includes two or more separate roadways and traffic is restricted to ne direction of travel upon any such roadway, no Person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking. The mayor is authorized to determine when standing or parking may be permitted upon the left-hand side of any such one-way roadway and to erect signs giving notice thereof.

(l) No Stopping, Standing, or Parking near Hazardous or Congested Places - The mayor is hereby authorized to determine and designate by proper signs places in which the stopping, standing, or vehicles would create an especially hazardous condition or would cause unusual delay in traffic.

(m) Owner Not to Permit Car Registered in His Name to be Illegally Parked - No Person shall allow, permit, or suffer any vehicle registered in his name to stand or park in the City of Anna in violation of any provisions of this section regulating the standing or parking of vehicles.

(n) Owner Responsible for Illegal Stopping, Standing, or Parking - If a vehicle is found unattended or unoccupied upon a Street, highway, alley, or other public place in violation of this provision, the same is hereby declared a nuisance per se and the fact that such vehicle is unattended or unoccupied by any Person shall be prima facie evidence that the owner unlawfully stopped, placed, or parked such vehicle. The records of the State Highway Department showing the name of the Person to whom Texas Highway License plates were issued shall constitute prima facie evidence of the ownership by the Person there named.

*(Ord. No. 95-14, adopted 10/10/1995)*

(o) Vehicles not to be Parked Longer than 24 Hours.

(1) It shall be unlawful for any Person, owner, or corporation to leave standing in any public Street, alley, or other public place any vehicle, automobile, truck, or other character of private property unattended for a longer continuous period of time than 24 hours.

*(Ord. 228-2005, adopted 9/27/2005)*

(2) When a vehicle is found unattended or unoccupied upon a Street, highway, alley or other public place in violation of any provision of this section regulating the stopping, standing or parking of vehicles, it shall be presumed that the owner of the vehicle unlawfully stopped, placed or parked the vehicle. Proof of the ownership may be made by a copy of the registration of the vehicle with the state department of highways and public transportation or the county motor vehicle license department showing the name of the Person to whom the state highway license plates were issued. This proof shall constitute prima facie evidence of the ownership of the motor vehicle by the Person to whom the certificate of registration was issued.

*(Ord. 228-2005, adopted 9/27/2005)*

(3) In the event any property of any description, vehicle, automobile, truck, trailer, or other character of private property shall be found existing, standing, parked, stopped, erected, or lying in or upon any part of any public Street, alley, or other public place within the corporate limits of the City of Anna, Texas, in violation of this section or any portion thereof, the same shall be a nuisance per se and shall be removed by any appropriate law enforcement officer

and taken to such place as designated by the mayor and kept there until application for its redemption shall be made by the owner or his authorized agent, who shall be entitled to the possession thereof upon payment of the sum of $10, together with all other costs of removal and storage that may have accrued thereon. This remedy and impounding fee shall be cumulative of any and all other penalties that may be provided; in the event the property impounded shall not be redeemed by the owner, or his authorized agent, within five days, it shall be disposed of in a manner prescribed by law.

*(Ord. No. 1995-14, adopted 10/10/1995)*

*(Ord. No. 550-2011, adopted 7/12/2011)*

*(Ord. No. 550-2011, adopted 7/12/2011)*

*(Ord. No. 550-2011, adopted 7/12/2011)*

**2.03 Penalty**

Any Person who fails to comply with or violates any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than $500 and each and every day of such violation shall be a separate and complete offense, unless otherwise specifically set forth in this Code.

*(Ord. No. 228-2005, adopted 9/27/2005; Ord. No. 550-2011, adopted 7/12/2011)*

**Section 3. Speed Limit Regulations**

**3.01 Speed Limits, Generally**

(a) As authorized by the provisions of Transportation Code, Section 545.356, the prima facie speed limit on public roadways in the City of Anna is 25 miles per hour, except for roadways:

(1) that are officially designated or marked as part of the state highway system;

(2) that are more than 35 feet in width;

(3) along which vehicular parking is prohibited on one or both sides of the roadway; or

(4) that have four or more lanes used for vehicular travel.

(b) The prima facie speed limit of a roadway that has a posted speed limit sign establishing a maximum speed that is less than 25 miles per hour during certain times of day is not altered by this section during those certain times. At all other times, the prima facie speed limit on any such roadway-with the exception of roadways described in subsection 3.01(a)1-4-is 25 miles per hour.

(c) The City Manager is hereby authorized to cause to be erected the appropriate signs indicating such speed zones.

*(Ord. No. 258-2006, adopted 3/14/2006)*

**3.02 Speed Limits along FM 2862**

Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Section 169(b) of Article 6701 d, Vernon's Texas Civil Statutes, prima facie speed limits were determined and declared to be reasonable and safe along FM 2862. A copy of accompanying Exhibits relating to said traffic investigations is on file at the office of the City Secretary and may be viewed upon request.

*(Ord. No. 1991-02, adopted 11/12/1991)*

**3.03 Speed Limits along North Highway 5**

Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Section 169(b) of Article 6701 d, Vernon's Texas Civil Statutes, prima facie speed limits were determined and declared to be reasonable and safe along North Highway 5. A copy of accompanying Exhibits relating to said traffic investigations is on file at the office of the City Secretary and may be viewed upon request.

*(Ord. No. 2000-06, adopted 5/9/2000)*

**3.04 Speed Limits along FM 455**

Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Section 169(b) of Article 6701 d, Vernon's Texas Civil Statutes, prima facie speed limits were determined and declared to be reasonable and safe along FM 455. A copy of accompanying Exhibits relating to said traffic investigations is on file at the office of the City Secretary and may be viewed upon request.

*(Ord. No. 340-2007, adopted 8/14/2007)*

**3.05 School Zone Speed Limits**

The City Council of the City of Anna, Texas hereby designates school speed zones in the following locations:

(a) Ferguson Parkway (CR 367). A maximum speed of 25 miles per hour is established for the periods beginning 30 minutes before the start of school and ending 15 minutes after the start of school; starting again 15 minutes before the end of school and ending 30 minutes after school ends for the day; and

(b) CR 371. A maximum speed of 25 miles per hour is established for the periods beginning 30 minutes before the start of school and ending 15 minutes after the start of school; starting again 15 minutes before the end of school and ending 30 minutes after school ends for the day.

(c) West Crossing Blvd. A maximum speed of 25 miles per house is established for the periods beginning 30 minutes before the start of school and ending 15 minutes after the start of school; starting again 15 minutes before the end of school and ending 30 minutes after school ends for the day; and

(d) Rosamond Parkway. A maximum speed of 25 miles per hour is established for the periods beginning 30 minutes before the start of school and ending 15 minutes after the start of school; starting again 15 minutes before the end of school and ending 30 minutes after school ends for the day.

All of the above-stated school speed zones shall be effective in the areas between the school zone signage and in effect on days when school is in session.

*(Ord. No. 1991-02, adopted 11/12/1991; (Ord. No. 550-2011, adopted 7/12/2011))*

**3.06 Penalty**

Any Person violating any of the provisions of this section shall be deemed guilty of a misdemeanor and upon conviction

thereof shall be fined in any sum not to exceed $200, unless otherwise specifically set forth in this Code.

*(Ord. No. 258-2006, adopted 3/14/2006)*

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