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PROOFS

Title 1

GENERAL PROVISIONS¹

Sec. 1.00.010. How Code designated and cited.

The ordinances embraced in this and the following chapters and sections shall constitute and be designated the "Code of Ordinances, City of Linden, Texas," and may be so cited. Such Code may also be cited as the "Linden Code of Ordinances" or the "Linden Municipal Code."

Sec. 1.00.020. Definitions and rules of construction.

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

Boards, committees, commissions, officers, employees, departments. Any reference to city boards, committees, commissions, officers, employees, or departments shall be construed to mean the respective entities or personnel of the City of Linden, Texas.

City. The term "the city," "this city" or "city" means the City of Linden, in the County of Cass, in the State of Texas.

Code. The term "this Code" means the Code of Ordinances, City of Linden, Texas, as designated in LMC 1.00.010.

Computation of time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be conducted, the day on which such notice is given or such act is done shall not be counted in computing the time, but the day on which such proceeding is to be done shall be counted unless it is a Saturday, Sunday, or legal holiday.

State law reference—Similar provision, V.T.C.A., Government Code § 311.004.

County. The term "county" means the County of Cass, Texas.

Delegation of authority. Whenever a section or provision appears to require the head of a department or some other city officer or employee to do some act or perform some duty, it shall be construed to authorize the head of the department or other officer or employee to designate, delegate and authorize subordinates to perform the required act or duty, unless the terms of the provision or section specify otherwise.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships, associations and corporations, as well as to males.

Highway. The term "highway" includes any street, alley, highway, avenue, public place or square, bridge, viaduct, tunnel, underpass, overpass and causeway in the city, dedicated or devoted to public use.

Joint authority. Words purporting to give authority to three or more officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it is otherwise declared.

Month. The term "month" means a calendar month.

Municipality. The term "municipality" means this political subdivision, the City of Linden, Texas.

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

Oath. The term "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation

¹ **Chapter note:** This proposed Chapter 1 is a standard feature of MCC codes, setting out provisions which are applicable to/throughout the code, unless otherwise specified.

may be substituted for an oath, and in such cases the terms "swear" and "sworn" shall be equivalent to the terms "affirm" and "affirmed."

Or, and. The term "or" may be read "and," and the term "and" may be read "or" if the sense requires it.

Owner. The term "owner," as applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety of the whole or part of such building or land.

Person. The term "person" shall extend to and be applied to associations, corporations, firms, partnerships and bodies politic and corporate, as well as to individuals.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Shall. The term "shall" always means mandatory and never means permissive.

Sidewalk. The term "sidewalk" means any portion of the street between the curb, or the lateral link of the roadway and adjacent property line, intended for use by pedestrians.

Signature, subscription. The terms "signature" and "subscription" include a mark when a person cannot write.

State. The term "state" means the State of Texas.

Street. The term "street" includes any highway, alley, street, avenue, boulevard, public place or square, viaduct, underpass, overpass, tunnel and causeway in the city, dedicated to public use.

TAC; T.A.C.; Tex. Admin. Code. The abbreviations "TAC," "T.A.C." and "Tex. Admin. Code" mean the Texas Administrative Code.

Vernon's Ann. Civ. Stat. The abbreviation "Vernon's Ann. Civ. Stat." means the latest edition or supplement to Vernon's Annotated Civil Statutes.

V.T.C.A. The abbreviation "V.T.C.A." means and refers to the latest edition or supplement to Vernon's Texas Code Annotated.

Written; in writing. The terms "written" and "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The term "year" means a calendar year.

Sec. 1.00.030. Catchlines of sections.

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

State law reference—Headings, V.T.C.A., Government Code § 311.024.

Sec. 1.00.040. References and editor's notes.

References and editor's notes following certain Code sections are provided as an aid and guide to the reader and are not controlling nor meant to have any legal effect whatsoever.

Sec. 1.00.050. References to titles, chapters, articles and sections.

All references in this Code to titles, chapters, articles and sections are to the titles, chapters, articles and sections of this Code, unless otherwise specified.

Sec. 1.00.060. Amendments to Code; effect of new ordinances; amendatory language.

(a) All ordinances passed subsequent to this Code which amend, repeal or in any way affect this Code may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections or any part thereof by subsequent ordinances, the repealed portions may be excluded from the Code by omission from reprinted pages affected thereby and the subsequent ordinances as numbered and printed or omitted, in the case of repeal, shall be prima facie evidence of the subsequent ordinances until the time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code of

ordinances.

(b) Amendments to any of the provisions of this Code may be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Code of Ordinances, City of Linden, Texas, is hereby amended to read as follows: . . ." The new provisions shall then be set out in full as enacted.

(c) In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, City of Linden, Texas, is hereby amended by adding a section, to be numbered _____, which section reads as follows: . . ." The new section shall then be set out in full as enacted.

(d) In lieu of subsection (c) of this section, when the city council desires to enact an ordinance of a general and permanent nature embracing a subject not previously existing in the Code, but which the city council desires to incorporate into the Code, a provision in substantially the following language may be made a part of the ordinance: "It is the intention of the council, and it is hereby ordained, that the provisions of this ordinance shall become and be made part of the Code of Ordinances of the City of Linden, Texas, and the sections of this ordinance may be renumbered to accomplish that intention."

(e) All sections, articles, chapters, titles or provisions desired to be repealed must be specifically repealed by section, article, chapter or title number, as the case may be.

Sec. 1.00.070. Effect of repeal or expiration of ordinance.

(a) The repeal of an ordinance shall not revive any ordinances in force before or at the time the ordinance repealed took effect.

(b) The repeal of an ordinance shall not affect any punishment or penalty incurred before the repeal took effect, nor any suit, prosecution or proceeding pending at the time of the repeal, for an offense committed or cause of action arising under the ordinance repealed.

State law reference—Repeal of a repealing statute, V.T.C.A., Government Code § 311.030.

Sec. 1.00.080. Supplementation of Code.

(a) By contract or by municipal personnel, supplements to this Code shall be prepared and printed whenever authorized or directed by the city. A supplement to the Code shall include substantive, permanent and general parts of ordinances adopted 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 are inserted, the Code will be current through the date of adoption of the latest ordinance included in the supplement.

(b) In preparing a supplement to this Code, all portions of the Code that have been repealed shall be excluded from the Code by omission thereof from reprinted pages.

(c) When preparing a supplement to the Code, the codifier (meaning the person, agency, organization or company authorized to prepare the supplement) may make formal, non-substantive 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 catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
- (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 title," "this chapter," "this article," etc., as the case may be, or to "LMC _____ through LMC _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and

- (5) Make other non-substantive 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 the ordinance material included in the supplement or already embodied in the Code.

Sec. 1.00.090. General penalty.²

Whenever in this Code or in any city ordinance or in any rule, regulation or order promulgated by any city officer or agency under authority vested in such officer or agency any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided, the violation of any provision of this Code or of any specific ordinance, regulation, rule or order that governs or regulates fire, safety, zoning, public health or sanitation, including the dumping of refuse, shall be punishable by a fine not exceeding \$2,000.00. The violation of any other provision of this Code or any other ordinance, rule, regulation or order shall be punishable by a fine not exceeding \$500.00, unless otherwise specifically stated in this Code. If the maximum penalty provided by this Code for any offense is greater than the maximum penalty for such violation provided by state law, the maximum penalty for such violation shall be that accorded under state law. Except where provided otherwise in this Code, each day an offense shall continue shall constitute a separate offense.

State law reference—Authority of city to establish penalties for violation of Code, V.T.C.A., Local Government Code § 54.001.

Sec. 1.00.100. Severability of parts of Code.³

The sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of a court of competent jurisdiction, the unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code.

Sec. 1.00.110. Certain ordinances, rights, etc., not affected by Code.⁴

(a) Nothing in this Code, or the ordinance adopting this Code, shall affect ordinances of the following subjects which are in effect at the time of adoption of this Code, including:

- (1) 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;
- (2) Any ordinance or resolution 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, or any contract or obligations assumed by the city;
- (3) The administrative ordinances or resolutions of the city not in conflict with the provisions of the Code;
- (4) Any ordinance or resolution fixing salaries of officers or employees of the city, unless superseded;
- (5) Any appropriation ordinance or resolution;
- (6) Any right of franchise granted by the council to any person, firm or corporation;
- (7) Any ordinance or resolution dedicating, naming, establishing, locating, relocating, closing, opening,

² **1-10, General penalty:** This default general penalty applies to any violation of a code section. By having a general penalty, you avoid having a multiplicity of penalty provisions in the code. (Of course, if you wish to have a specific penalty for violation of a specific code section, you are free to do so.)

³ **1-11, Severability:** Having a severability clause here, applicable to the entire code, removes the necessity of having multiple severability sections scattered throughout the code for each chapter or article.

⁴ **1-12, Certain ordinances not affected:** Not all ordinances are included in the code; this section lists certain ordinances which, though not in the code, are to be considered still in effect at the time of adoption of the new code, and thereafter until later repealed (or expired).

paving, widening, vacating, etc., any street or public way in the city;

(8) Any ordinance or resolution establishing and prescribing the street grades of any city streets;

(9) Any ordinance or resolution providing for local improvements or assessing taxes therefor;

(10) Any ordinance or resolution dedicating or accepting any plat or subdivision in the city, or providing regulations for the same;

(11) Any ordinance annexing property to the city;

(12) Any ordinances or amendments thereto concerning zoning, subdivisions, or land development;

(13) Any ordinance or resolution regulating the erection, alteration, repair, demolition, moving or removal of buildings or other structures;

(14) Ordinances or resolutions prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with this Code;

(15) Any ordinance or resolution fixing utility rates and charges, or any valid comprehensive fee schedule;

(16) Any ordinance of agreement with another political subdivision;

(17) Any ordinance concerning issuance of tax anticipation notes;

(18) Any current ordinance concerning personnel benefits, including, but not limited to, participation in the Texas Municipal Retirement System or the Texas Municipal League intergovernmental employee benefits pool;

(19) Any ordinance in effect which establishes a requirement or procedure to obtain a municipal permit or license to conduct any commercial activity, construct or alter a building or structure, or otherwise obtain municipal permission or sanction as a precondition;

(20) Any ordinance in effect at the time of adoption of this Code which imposes a tax;

(21) Any ordinance in effect which provides for regulation of adult-entertainment or sexually-oriented businesses;

~~Any ordinance in effect which pertains to regulation of alcoholic beverages, including, but not limited to, hours of sale and the operation of private clubs.~~

(22) Any ordinance, resolution or order of the city council accepting the designation by a state or federal entity to administer or enforce state or federal laws, regulations, or orders;

(23) Any ordinance concerning establishment and operation of the municipal court, including court fees;

(24) Any ordinance establishing historic districts, designating landmarks and establishing criteria, appointing a preservation officer or commission and prescribing duties, and otherwise pertaining to historic preservation;

(25) Any ordinance regarding a designated holiday, memorial, appreciation, or fair housing, or similar concern.

(26) Any other ordinance or resolution, or part thereof, which is not of a general and permanent nature; or which is referred to elsewhere in this Code as continuing in effect.

(b) All such ordinances and resolutions are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code. Such ordinances and resolutions are on file in the city secretary's office.

Title 2

ADMINISTRATION

State law reference—Type A cities, V.T.C.A., Local Government Code § 22.001 et seq.; provisions and powers of Type A general law municipalities, V.T.C.A., Local Government Code §§ 51.011--51.018; Type A municipality may adopt necessary ordinances not inconsistent with state law, V.T.C.A., Local Government Code § 51.011.

CHAPTER 2.04. ADMINISTRATION IN GENERAL

Sec. 2.04.010. Classification of city.

The city is a Type A city under state law.

Sec. 2.04.020. Identity theft prevention program.⁵

The identity theft prevention program set out in Exhibit A to Ord. No. 03-09 is adopted by reference and incorporated into this Code.

(Ord. No. 03-09, §§ 2, 3, 4-13-2009)

CHAPTER 2.08. GOVERNING BODY (RESERVED)

CHAPTER 2.12. OFFICIALS AND OFFICERS (RESERVED)

CHAPTER 2.16. BOARDS, COMMITTEES AND COMMISSIONS

ARTICLE I. BOARDS, COMMITTEES AND COMMISSIONS GENERALLY

ARTICLE II. CITIZEN ADVISORY COMMITTEE

Sec. 2.16.110. Citizen advisory committee established.

~~That~~ A citizen advisory committee shall be established to meet seven times per year, assuming there are items for an agenda, to provide non-binding advice to the city council regarding the long-range planning activities and needs of the community.

(Res. No. 10-12, § 1, 10-9-2012)

Sec. 2.16.120. Councilperson to represent city council.

~~That~~ A councilperson shall be appointed to represent the city council on this committee.

(Res. No. 10-12, § 2, 10-9-2012)

Sec. 2.16.130. City staff member to represent city.

~~That~~ The city administrator, secretary, or other staff member shall be appointed to represent the city staff on this committee and serve as chair of the committee.

(Res. No. 10-12, § 3, 10-9-2012)

Sec. 2.16.140. Private citizen to represent community at large.

~~That~~ A private citizen(s) shall be appointed to represent the community at large on this committee.

(Res. No. 10-12, § 4, 10-9-2012)

⁵ **Identity theft prevention program:** If the wishes to set out the text of Exhibit A to Ord. No. 03-09, please provide that exhibit to MCC and we will gladly set out the content as an article within this Administration chapter.

Sec. 2.16.150. Members to serve without compensation.

~~That~~ All members must agree to voluntarily serve, without compensation.

(Res. No. 10-12, § 5, 10-9-2012)

Sec. 2.16.160. Quorum.

~~That~~ A quorum of the committee is not necessary for it to meet, discuss, or make advice regarding planning-related issues, provided that the chair of the committee has the exclusive right to provide committee advice to the city council.

(Res. No. 10-12, § 6, 10-9-2012)

Sec. 2.16.170. Committee to serve at will of city council.

~~That~~ The citizen advisory committee shall serve at the will of the city council, which may abolish or suspend activities of the committee at any time without cause through simple majority vote.

(Res. No. 10-12, § 7, 10-9-2012)

Sec. 2.16.180. Committee limited to providing non-binding advice.

~~That~~ This committee shall not have the authority of a "planning and zoning commission," a "zoning board of adjustment," or other such official body described by the laws of the state, and is limited to providing non-binding advice to the city council.

(Res. No. 10-12, § 8, 10-9-2012)

CHAPTER 2.20. PERSONNEL**ARTICLE I. PERSONNEL GENERALLY****ARTICLE II. EMPLOYEE DRUG AND ALCOHOL TESTING****Sec. 2.20.110. Purpose.**

It is the policy of the city to foster a work environment free from the effects of both the illegal use of controlled substances and the use of alcoholic beverages. The use of drugs and alcohol impairs employee judgment which may result in increased safety risks, hazards to the public and environment, employee injuries, faulty decision-making, and reduced productivity. The use of illegal drugs, on or off duty, by city employees is inconsistent not only with the law-abiding behavior expected of all citizens, but also with the special trust placed in such employees as servants of the public. Employees who are under the influence of alcohol or use illegal drugs pose a serious health and safety threat to members of the public, city operations, and to other city employees. In recognition of the serious and essential duties and responsibilities entrusted to the employees of the city and with the knowledge that drugs and alcohol can hinder a person's ability to perform and fulfill those duties and responsibilities as assigned, this article will provide guidelines for the detection and deterrence of alcohol and/or drug abuse.

(Ord. No. 07-01, § 1, 7-9-2007)

Sec. 2.20.120. Policy.

All employees of the city are required to refrain from the use of illegal drugs. Persons who use illegal drugs, on or off duty, are not suitable for employment with the city. The use, possession, or sale of illegal drugs by any employee, on or off duty, is strictly prohibited. Possession or use of alcoholic beverages on city premises is prohibited except at city-sponsored social or recreational functions approved by the city council. Further, it is the policy of the city that employees shall not be under the influence of alcohol while on duty or "on-call." All employees shall be aware that violation of this policy can result in disciplinary action up to and including dismissal.

(1) As used in this policy the term "under the influence" shall mean:

- a. Not having the normal use of mental or physical faculties by reason of the introduction of alcohol, a controlled substance, a drug, a dangerous drug, a combination of two or more of those substances, or any other substance into the body; or

- b. Having an alcohol concentration of 0.08 or more. The term "alcohol concentration" shall mean the number of grams of alcohol per 210 liters of breath; 100 milliliters of blood; or 67 milliliters of urine.
- (2) An employee who is under the influence of alcohol or uses or possesses illegal drugs during working hours or on city property is subject to immediate disciplinary action, including dismissal. Further, employees reasonably suspected to be under the influence of alcohol or drugs shall be prevented from engaging in further work of any sort and will give the city cause to subject them to immediate testing in accordance with the procedures set forth in this policy.

(Ord. No. 07-01, § 2, 7-9-2007)

Sec. 2.20.130. Drug groups tested.

(a) When drug testing is required under the provisions of this policy, a urinalysis test will be given to detect the presence of the following drug groups:

- (1) Amphetamines/methamphetamine (e.g., Speed, Crystal).
- (2) Benzodiazepines (e.g., Valium, Librium, Oxazepam, Serax, Dalmane, Ativan).
- (3) Barbiturates (e.g., Amobarbital, Butabarbital, Pentobarbital, Phenobarbital, Secobarbital).
- (4) Cocaine.
- (5) Methodone.
- (6) Methaqualone (e.g., Quaalude).
- (7) Opiates (e.g., Codeine, Heroin, Morphine, Hydromorphone, Hydrocodone).
- (8) Phencyclidine (PCP).
- (9) THC (Marijuana).
- (10) Alcohol.
- (11) Other substances which may be deemed controlled substances in the Texas Penal Code, ~~the future~~.

(b) The test threshold level for each drug group will be based on testing laboratory standards that ensure a drug is genuinely present when a positive result occurs and that rule out inadvertent exposure to a drug group where that is a possibility.

(Ord. No. 07-01, § 3, 7-9-2007)

Sec. 2.20.140. General standards for drug testing.

(a) *Pre-employment drug screening.* All applicants for employment by the city shall be required, as part of their pre-employment physical, to undergo drug testing for the presence of the drug groups set forth in this policy; however, an employee who has worked for the city within the last six months and was tested by the city within the last six months, need not be retested upon rehire, unless the employee was dismissed for a violation of this policy or unless required by the department head. Applicants who refuse to consent to drug screening will not be considered for employment. An applicant who has a positive test result after an initial drug testing by the enzyme-multiplied immunoassay techniques (EMIT) test and a confirmatory test using the gas chromatography/mass spectrometry (GC/MS) test shall not be eligible for hire by the city until the expiration of one year from the date of their testing. An applicant who has tested positive shall be eligible to reapply for city employment upon the expiration of such one-year period; provided, however, that the applicant shall be subject to retesting prior to employment.

(b) *Drug screening for current employees.*

- (1) The city may require an employee to undergo drug testing if there is a reasonable suspicion that the employee is under the influence of drugs or alcohol during work hours. The term "reasonable suspicion" means an articulable belief based on specific facts, and reasonable inferences drawn from those facts, that an employee is under the influence of drugs or alcohol. Circumstances which constitute a basis for determining reasonable suspicion may include, but are not limited to:

- a. A pattern of abnormal, unusual, or erratic behavior;
 - b. Information provided by a reliable and credible source;
 - c. Possession of drugs or direct observation of drug use;
 - d. Presence of the physical symptoms of drug use (i.e., glassy or bloodshot eyes, slurred speech, poor coordination or reflexes); or
 - e. Involvement in a work-related accident involving a vehicle, heavy equipment, or substantial injury to the employee or another person. Substantial injury shall include, but not be limited to, an injury that requires medical attention or for which a claim for workman's compensation is filed.
- (2) An employee who refuses to consent to a drug test when reasonable suspicion of alcohol or drug use has been identified is subject to disciplinary action up to and including dismissal. The reasons for the refusal shall be considered in determining the appropriate disciplinary action.

(Ord. No. 07-01, § 4, 7-9-2007)

Sec. 2.20.150. Management responsibilities and guidelines.

Department heads and supervisors are responsible for consistent enforcement of this policy. Any department head or supervisor who knowingly permits a violation of this policy by an employee under his direct supervision shall be subject to disciplinary action. Any department head or supervisor requesting an employee under his supervision to submit to a drug and/or alcohol test should immediately notify the mayor. Should the mayor concur that there is a reasonable suspicion that the employee is under the influence of drugs or alcohol, the following procedure shall immediately be applied:

- (1) The department head or supervisor should document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs;
- (2) The department head or supervisor requesting an employee to submit to a drug and/or alcohol test shall be responsible for the employee's transport to the drug testing laboratory where the drug and/or alcohol test will be performed; and
- (3) Any department head or supervisor encountering an employee who refuses to submit to a drug and/or alcohol test upon request shall remind the employee of the requirements of the policy and that the employee is subject to disciplinary action, including dismissal. Any employee refusing to submit to a drug and/or alcohol test shall not be forced to submit to such testing. The department head or supervisor should provide transport for the employee to his home.

(Ord. No. 07-01, § 5, 7-9-2007)

Sec. 2.20.160. Employee responsibility.

All employees of the city must:

- (1) Not report to work or be subject to duty while his ability to perform job duties is impaired due to alcohol or drug use, on or off duty;
- (2) Not directly or through a third party sell or provide drugs or alcohol to any person while on duty;
- (3) Not directly or through a third party sell or provide drugs or alcohol to another employee while that employee is on duty or on call;
- (4) Submit immediately to reasonable requests for alcohol and/or drug testing when requested by a responsible city representative; failure to do so subjects the employee to the disciplinary action set forth in ~~paragraph 4.b(5) above~~ LMC 2.20.140(b)(1)e;
- (5) Notify his supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of city equipment; and
- (6) Provide, within 24 hours of request, a current valid prescription for any drug or medication identified when a drug test is positive. The prescription must be in the employee's name.

(Ord. No. 07-01, § 6, 7-9-2007)

Sec. 2.20.170. Consent to drug testing.

Before a drug test is administered, employees or applicants will be asked to sign a consent form authorizing the test and permitting release of test results to city officials. The consent form shall provide space for employees and applicants to acknowledge that they have been notified of the city's drug testing policy. The consent form shall also set forth the following information:

- (1) The procedure for confirming an initial positive test result;
- (2) The consequences of a confirmed positive test result; and
- (3) The consequences of refusing to undergo a drug test.

(Ord. No. 07-01, § 7, 7-9-2007)

Sec. 2.20.180. Drug testing procedure.

(a) *Compliance required by all employees.* All employees shall comply with drug-testing screening requirements of a qualified drug-testing facility and its guidelines.

- (1) The initial drug screening shall be by the enzyme-multiplied immunoassay techniques (EMIT) test, or equivalent, which shall be administered at city expense. An employee or job applicant whose drug test yields a positive result shall be given a second test, at city expense, using a gas chromatography/mass spectrometry (GC/MS) test or equivalent.
- (2) The second test shall use a portion of the same test sample withdrawn from the employee or applicant for use in the first test. If the second test confirms the positive test result, the employee or applicant shall be notified of the results in writing by the appropriate department head or designee, using a standard form. The letter of notification shall identify the particular substance found and its concentration level. An employee or applicant whose second test confirms the original positive test result may, at the employee's or applicant's own expense, have a third test conducted on the same sample at a laboratory to be selected by the city and which meets minimum criteria for drug testing.

(b) Testing facilities. All drug testing of employees and applicants shall be conducted at medical facilities or laboratories selected by the city. A medical facility or lab must maintain written procedures approved by the city that will be used to maintain test samples. These procedures shall, at a minimum, include:

- (1) Testing procedures which ensure privacy to employees and applicants consistent with the prevention of tampering;
- (2) Methods of analysis which ensure reliable test results, including the use of gas chromatography/mass spectrometry to confirm positive test results;
- (3) Chain-of-custody procedures which ensure proper identification, labeling, and handling of test samples; and
- (4) Retention and storage procedures which ensure reliable results on confirmatory tests of original samples. At the test site, the employee or applicant will be given a form on which he may list any medications he has taken, or any other legitimate reasons for his having been exposed to drugs, within the last 30 days. The form will be sealed in an envelope that will not be opened unless the test is positive.

(c) Processing of samples. Upon receipt of the sample from the employee, the individual supervising the testing will test the temperature of the urine and initiate the processing of the sample. The sample shall be sealed by the employee and the individual supervising the testing will sign the sealed sample. The sample will be labeled with a control number and the date and time the specimen was obtained and kept in a secured refrigerated atmosphere until tested. The seal will only be broken by the individual performing the analysis. In order to protect the chain of custody, any person handling the sample must sign for it.

(d) Privacy in drug testing. Urine samples shall be provided in a private restroom stall or similar enclosure so that employees and applicants may not be viewed while providing the sample. Street clothes, bags, briefcases,

purses, and other containers may not be carried into the test area. The water in the commode may be colored with blue dye to protect against dilution of test samples.

(Ord. No. 07-01, § 8, 7-9-2007)

Sec. 2.20.190. Confidentiality of test results.

All information from an employee's or applicant's drug test is confidential and only those with a need to know are to be informed of test results. Disclosure of test results to any other person, agency, or organization is prohibited unless written authorization is obtained from the employee or applicant. All records relating to the taking of a drug test or the order to take a drug test shall be deemed confidential unless written authorization has been obtained from the employee or applicant or the records become the subject of a judicial proceeding. All records relating to the taking or ordering of a drug test shall be kept by the human resource specialist in a separate file. The human resource specialist shall implement procedures to prevent the unauthorized distribution of the results of or the order to take a drug test. The results of a positive drug test shall not be released until the results are confirmed. The records of unconfirmed positive test results and negative test results shall be handled in accordance with all applicable laws and regulations.

(Ord. No. 07-01, § 9, 7-9-2007)

Sec. 2.20.200. Training.

The city ~~shall~~ may provide a program of training to assist supervisory personnel in identifying drug and alcohol use among employees. Such training will be directed towards helping supervisors recognize the conduct and behavior that gives rise to a reasonable suspicion of use.

(Ord. No. 07-01, § 10, 7-9-2007)

Sec. 2.20.210. Prior notice of testing policy.

The city shall provide written notice of its drug testing policy to all employees. A standard notice shall be prominently displayed in the city hall administration office and field offices and shall contain the following information:

- (1) The need for drug testing;
- (2) The circumstances under which testing may be required;
- (3) The procedure for confirming an initial positive drug test result;
- (4) The consequences of a confirmed positive test result; and
- (5) The consequences of refusing to undergo a drug test.

(Ord. No. 07-01, § 11, 7-9-2007)

Sec. 2.20.220. Consequences of a confirmed positive test result.

If an employee's positive test result has been confirmed, the employee is subject to disciplinary action up to and including dismissal. Disciplinary action may also include reassignment to a different position and periodic drug testing of the employee at the discretion of the department head. Factors to be considered in determining the appropriate disciplinary response include the employee's work history, length of employment, current job performance, and the existence of past disciplinary actions.

(Ord. No. 07-01, § 12, 7-9-2007)

Sec. 2.20.230. Substance abuse rehabilitation program (SARP) referral.

Upon the first confirmed positive drug test, the employee may request a leave of absence for referral to a SARP for assessment, counseling, and rehabilitation. Participation in a SARP is voluntary. Disciplinary action based on a violation of the city's drug policy is not automatically suspended by an employee's participation in a SARP and may be imposed when warranted by this policy or other appropriate authority. The city will participate in the cost of a SARP to the extent of coverage under the city's then-current group health care benefits plan available to employees.

(Ord. No. 07-01, § 13, 7-9-2007)

Sec. 2.20.240. Exception.

Nothing contained herein shall be construed to prohibit the possession, sale or purchase of illegal drugs, drug paraphernalia, alcoholic beverages, or any other substance prohibited hereby when such possession, sale, or purchase is conducted by the city's police department personnel during legitimate police department activities.

(Ord. No. 07-01, § 14, 7-9-2007)

~~Sec. 15. Effective date.~~

~~This Policy shall be effective immediately upon its adoption by City Council. Testing of job applicants shall begin immediately. Testing of current employees shall not begin until 60 calendar days after the effective date, unless the employee is involved in a work-related accident. Any employee may, during this period, voluntarily identify themselves as an abuser of drugs, alcohol, or other substance and may obtain counseling and rehabilitation through a SARP.~~

~~(Ord. No. 07-01, § 15, 7-9-2007)~~

PROOFS

Title 3

ALCOHOLIC BEVERAGES

State law reference—Local regulation of alcoholic beverages, V.T.C.A., Alcoholic Beverage Code § 109.31 et seq.; municipal regulation of beer, V.T.C.A., Alcoholic Beverage Code § 109.32; local regulation of billboards and electric signs, V.T.C.A., Alcoholic Beverage Code § 108.55; local option elections, V.T.C.A., Alcoholic Beverage Code § 251.01 et seq.

Sec. 3.00.010. Definitions.

~~The following definitions are applicable to the provisions of the ordinance;~~ The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alcoholic beverage means alcohol or any beverage containing more than one-half of one percent of alcohol by volume which is capable of use for beverage purposes either alone or when diluted.

Alcoholic beverage permit means an official certificate issued by the city secretary certifying compliance with this title.

Ale or malt liquor means a malt beverage containing more than four percent of alcohol by weight.

Beer means a malt beverage containing one-half of one percent or more of alcohol by volume and not more than four percent of alcohol by weight and does not include a beverage designated by label or otherwise by a name other than beer.

Beer and wine retail sales (drive through) means businesses that engage in the sale of beer, wine and/or malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume, for off-premises consumption only, with a drive-through facility including a drive-up window, drive-through building or any other means of conducting sales without requiring customers to exit their vehicles.

Beer and wine retail sales (no drive through) means businesses that engage in the sale of beer, wine and/or malt liquors containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume, for off-premises consumption only, with no drive-through facility.

Billboard means a structure directly attached to the land, a house, or a building having one or more spaces used to display a sign or advertisement of an alcoholic beverage or a person engaged in the manufacture, sale, or distribution of alcoholic beverages, whether or not the structure is artificially lighted.

Child-care facility, ~~as those terms are that term is~~ defined by V.T.C.A., Human Resources Code § 42.002, means a certified facility licensed, certified, or registered by the department of family and protective services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility for all ~~party or part~~ of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers.

~~City means and refers to the City of Linden, Texas.~~

Day-care center means a child-care facility that provides for more than 12 children less than 14 years of age for less than 24 hours a day.

Dealer means as that term is used in ~~Sec 109.33 Texas Alcoholic Beverage Code V.T.C.S.~~ V.T.C.A., Alcoholic Beverage Code § 109.33, and shall include the term "person" as that term is defined herein.

Electric sign means a structure or device other than an illuminated billboard by which artificial light produced by electricity is used to advertise the alcoholic beverage business by a person who manufactures, sells, or distributes alcoholic beverages or to advertise an alcoholic beverage.

Licensee means a person who is the holder of a license provided in this title or any agent, servant or employee of that person.

Mixed beverage means one or more servings of a beverage composed in whole or part of an alcoholic beverage

in a sealed or unsealed container of any legal size for consumption on the premises where served or sold by the holder of a mixed beverage permit.

Motel means a building or a group of two or more buildings containing guest rooms or apartments and used primarily for the accommodations of automobile travelers containing a restaurant as defined herein. Bed and breakfast facilities shall be considered motels.

Neighborhood convenience center means retail establishments which carry convenience goods, such as groceries, drugs, and some variety items, including grocery stores, markets, supermarkets, and variety stores.

Off-premises consumption means the sale of a sealed alcoholic beverage by an establishment permitted herein for the sale ~~of~~ or consumption off-premises.

On-premises consumption means the sale of an alcoholic beverage for the consumption in a business established as permitted herein.

Open container means a container that is no longer sealed.

Outdoor advertising means any sign bearing a word, mark, description, or other device that is used to advertise an alcoholic beverage or the business of a person who manufactures, sells, or distributes an alcoholic beverage if the sign is displayed outside the walls or enclosure of a building or structure where a license or permit is issued or if it is displayed inside a building so that it is visible by a person of ordinary vision from outside the building.

Permittee means a person who is the holder of a permit provided for in this title, or an agent, servant, or employee of that person.

Person means a natural person or association of natural persons, trustee, receiver, partnership, corporation, organization ~~of~~ or the manager, agent, servant, or employee of any of them.

Pre-packaged alcoholic beverage retail sales (drive through) means businesses that engage in the sale of pre-packaged alcoholic beverages, for off-premises consumption, with a drive-through facility, including a drive-up window, drive-through building or any other means of conducting sales without requiring customers to exit their vehicles.

Pre-packaged alcoholic beverage retail sales (no drive through) means businesses that engage in the sale of pre-packaged alcoholic beverages, for off-premises consumption, with no drive-through facility.

Private school means a private school, including a parochial school, that:

- (1) Offers a course of instruction for students in one or more grades from kindergarten through grade 12; and
- (2) Has more than 100 students enrolled and attending courses at a single location.

Restaurant means a place where meals are prepared and served to the public for consumption on or off the premises.

Wine means the product obtained from the alcoholic fermentation of juice of sound ripe grapes, fruits, berries, or honey, and includes wine coolers.

Wine cooler means an alcoholic beverage consisting of vinous liquor plus plain, sparkling, or carbonated water and which may also contain one or more natural or artificial blending or flavoring ingredients. A wine cooler may have an alcohol content as low as one-half of one percent by volume.

(Ord. No. 07-13, § 2, 5-23-2013)

Sec. 3.00.020. Permitted uses.

(a) The sale of alcoholic beverages for on-premises consumption shall only be permitted by restaurants or motels holding a food and beverage certificate and the restaurant or motel's revenue from the sale of alcoholic beverages shall be no more than 40 percent of its gross revenue.

(b) Any business, existing or new, that desires to sell any alcoholic beverage within the city limits ~~of the city of Linden~~ must obtain an alcoholic beverage permit issued by the city.

(Ord. No. 07-13, § 3, 5-23-2013)

Sec. 3.00.030. Sale of alcoholic beverages prohibited near public schools, private schools, churches or hospitals.

(a) It shall be unlawful for any dealer to sell alcoholic beverages from or at a place of business within the city within 300 feet of a church, public hospital, or public or private school.

(b) The measurement of the distance between the place of business where alcoholic beverages are sold and the church or public hospital shall be along the property lines of the street fronts and from front door to front door and in a direct line across intersections.

(c) The measurement of the distance between the place of business where alcoholic beverages are sold and the public or private school shall be in a direct line from the property line of the place of business and in a direct line across intersections.

(Ord. No. 07-13, § 4, 5-23-2013)

Sec. 3.00.040. Sale of alcoholic beverages prohibited near day-care centers and child-care facilities; exception.

(a) It shall be unlawful for any holder of a wine and beer retailer permit, mixed beverage permit, retail dealer on-premises license or brew pub license who does not hold a food and beverage certificate to sell alcohol from or at a place of business within the city within 300 feet of a day-care center or child-care facility.

(b) This section does not apply to a foster group home, foster family home, agency group home or agency as those terms are defined by V.T.C.A., Human Resources Code § 42.002.

(c) The measurement of the distance between the place of business where alcoholic beverages are sold and the day-care center or child-care facility shall be in a direct line from the property line of the day-care center or child-care facility to the property line of the place of business and in a direct line across intersections.

(Ord. No. 07-13, § 5, 5-23-2013)

Sec. 3.00.050. Consumption of alcoholic beverage and possession of an open container near public or private schools; exception.

A person commits an offense if the person possesses an open container or consumes an alcoholic beverage on a public street, public alley, or public sidewalk within 1,000 feet of the property line of a facility that is a public school, including a parochial school, that provides all or any part of pre-kindergarten through 12th grade, except when a temporary beer license is issued by the city for premises locations within the corporate city limits.

(Ord. No. 07-13, § 6, 5-23-2013)

Sec. 3.00.060. Signage.

No person may erect or maintain a billboard, electric sign, or any outdoor advertising in violation of any ordinance of the city or this title.

- (1) No person shall erect or maintain a billboard, electric sign, or any outdoor advertising for the sale or consumption of an alcoholic beverage within the city limits ~~of the City of Linden.~~
- (2) No person shall erect, post or display any signs for the sale or consumption of alcoholic beverages or other forms of advertisement inside the alcoholic beverage establishment if same can be viewed from a public street.

(Ord. No. 07-13, § 7, 5-23-2013)

Sec. 3.00.070. Local fees for license and application.

(a) For on-premises consumption, the city hereby levies an annual fee in a sum equal to 50 percent of the state's third renewal fee for a mixed beverage permit with a food and beverage certificate, and all other licenses required, as authorized by the Texas Alcoholic Beverage Code, except a temporary or agent's beer license issued from premises locations within the corporate limits of the city.

(b) For off-premises consumption, the city hereby levies an annual fee in a sum equal to 50 percent of the state's fee for a beer retailer's off-premises license, and all other licenses required, as authorized by the Texas Alcoholic Beverage Code, except a temporary or agent's beer license issued for premises locations within the

corporate limits of the city.

(c) There is hereby levied a \$150.00 administrative processing fee for acceptance, review and verification of all new applications.

(d) All payments shall be made to the city along with the submission of the application.

(e) The city shall issue a receipt for display with the state license or permit on the licensed or permitted premises.

(Ord. No. 07-13, § 8, 5-23-2013)

PROOFS

Title 4 ANIMALS

State law reference—Regulation of animals, V.T.C.A., Health and Safety Code ch. 822; rabies control, V.T.C.A., Health and Safety Code ch. 826; Type A municipality may regulate animals running at large, V.T.C.A., Local Government Code § 215.026; municipal authority to require restraint of dogs and cats, V.T.C.A., Health and Safety Code § 826.033(a)(1); registration of dogs and cats, V.T.C.A., Health and Safety Code § 826.031 et seq.; local regulation of dangerous dogs (breed-specific regulation prohibited), V.T.C.A., Health and Safety Code § 822.047.

CHAPTER 4.04. ANIMALS IN GENERAL

Sec. 4.04.010. Vaccination and registration required.

It shall be unlawful for any person within the city limits of ~~Linden~~ to own, keep, possess, or allow to remain upon the premises under his control any dog/cat, without having had the dog(s)/cat(s) vaccinated against rabies by a licensed veterinarian. Proof of vaccination shall be a properly executed vaccination certificate signed by a licensed veterinarian. Such certificate must be displayed freely upon the request of ~~the~~ a city police officer. Owners must ensure that all dogs/cats in their control ~~and~~ display a rabies vaccination tag which bears evidence of current vaccination against rabies.

(Ord. No. 06-14, § 1, 5-12-2014)

Sec. 4.04.020. Dogs/cats at large prohibited.

It shall be unlawful for any person to permit ~~and any~~ dog/cat owned, possessed, kept or harbored by him to be at large on the streets, alleys, or public places, or on private premises not under the control of the owner within the city limits of ~~Linden~~. Any dog/cat found on the streets, alleys or public places or on private premises not under the control of the owner by the means of an adequate leash shall be considered to be at large and its owner in violation of this section.

(Ord. No. 06-14, § 2, 5-12-2014)

Sec. 4.04.030. Vicious or dangerous dogs/cats.

Dogs and cats which have been reported to have bitten a person or another animal ~~or has threatened a person~~ are considered to be vicious and/or dangerous. Upon notification, the owners of such dogs/cats are required to confine the dog(s)/cat(s) within a building or secure enclosure and not allow the animal outside that confinement without an adequately strong and effective muzzle. Further, upon official notification by ~~the~~ a city police officer, the owner must, within 60 days, secure and maintain liability insurance in the amount of at least \$100,000.00 against any possible incident involving the dog(s)/cat(s).

(Ord. No. 06-14, § 3, 5-12-2014)

Sec. 4.04.040. Dogs/cats constituting imminent peril.

Any dog/cat that is or appears to be rabid or is placing a person or another animal in imminent peril may be destroyed immediately by a city police officer. If the animal is destroyed, every effort will be made to prevent damage to its head and brain. The head of any animal destroyed by virtue of this provision as it pertains to rabies shall be properly preserved for examination by an approved laboratory to determine if, in fact, the animal was rabid. All fees/charges associated with said examination are the responsibility of the animal's owner.

(Ord. No. 06-14, § 4, 5-12-2014)

Sec. 4.04.050. Dogs and cats constituting a nuisance.

Certain conditions shall be considered as a public nuisance and shall be unlawful. The following are conditions that shall be viewed as a public nuisance by the city:

- (1) Prolonged and continuous barking or meowing by a dog/cat which becomes disturbing to a person of ordinary sensibility.

- (2) Confinement of an animal whereby the accumulation of wastes causes foul and offensive odors to nearby neighbors. Also, waste accumulations which are considered a hazard to other animals or human beings.
- (3) An animal which is continually on the premises of another causing disruption or depositing wastes of any kind.
- (4) ~~An~~ Empty animal pens, stables or enclosures in which an animal may be kept or confined shall not be permitted to become offensive to a person of ordinary sensibilities through previous use.
- (5) Any dog/cat which chases after a motorized vehicle, bicycle or pedestrian on any public thoroughfare.

(Ord. No. 06-14, § 5, 5-12-2014)

Sec. 4.04.060. Reporting possible rabies exposure.

Any person observing an animal bite or scratch to another animal or person or an animal suspected of rabies due to its behavior shall report the incident or sighting to ~~the~~ a city police officer. The resulting report shall include the location of the incident, name and address of the animal's owner, if known, name and address of victim if known and a description of the animal. ~~The~~ A city police officer will investigate all such reports.

(Ord. No. 06-14, § 6, 5-12-2014)

Sec. 4.04.070. Quarantine of animals.

(a) The owner of any animal known or suspected to be rabid shall submit the animal for quarantine as directed by ~~the~~ a city police officer. Animals known or suspected to be rabid and whose owner cannot be located may be impounded for quarantine in an approved animal facility ~~of~~ at the direction of ~~the~~ a city police officer. Such quarantine shall be for at least ten days. Quarantine of an animal may be effected at any of the following locations, subject to the approval of ~~the~~ a city police officer:

- (1) Veterinary facility;
- (2) On the premises of the owner.
- (b) All expenses incurred by the quarantine shall be the responsibility of the owner.

(Ord. No. 06-14, § 7, 5-12-2014)

Sec. 4.04.080. Animal well-being.

Any animal kept or maintained within the city limits of ~~Linden~~ shall be cared for in a humane and considerate manner. ~~The~~ A city police officer will investigate all incidents of possible animal abuse. Any person in possession of an animal shall maintain yards, pens, and/or enclosures in a manner as to prevent offensive odors, flies, mosquitoes, or other noxious insects which might endanger the public's health or safety.

(Ord. No. 06-14, § 8, 5-12-2014)

Sec. 4.04.090. Fines.

Any violation of this chapter may result in a fine not to exceed \$500.00. Each succeeding day of violation shall constitute a separate offense. All fines shall be collected through the municipal court.

(Ord. No. 06-14, § 9, 5-12-2014)

CHAPTER 4.08. LIVESTOCK

Sec. 4.08.010. Definitions.

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

Enclosure means a pen, cage, coop, loft, stable, shed, structure or enclosure used to house a bird, fowl, livestock, or other animal. (Does not include pastured animal within a pasture fence.)

Fowl includes a chicken, turkey, goose, guinea hen, or duck.

Handler means a person who has charge, care, custody, or control of an animal.

Livestock includes, but is not limited to, horses, mules, burros, cattle, sheep, swine and goats.

Nuisance. The following conditions would qualify as a nuisance:

- (1) Noises that disrupt the peace of the neighborhood.
- (2) Unpleasant smells.
- (3) Unhealthy conditions for humans and/or animals involved.
- (4) Unsightly conditions that undermine adjoining property values.

Owner means a person who owns, feeds, keeps, maintains, or harbors an animal or who knowingly allows an animal to remain on the person's property.

Small animals includes, but is not limited to, rabbits, hamsters, squirrels, bats, ferrets, and guinea pigs, that are kept outside. Excluding cats and dogs.

(Ord. No. 13-15, § 1-1, 11-9-2015)

Sec. 4.08.020. Enclosure requirements.

~~Any~~ person(s) may not keep an animal, fowl, bird, or reptile in an enclosure unless the enclosure is:

- (1) Securely built;
- (2) Adequately sized for the kind and number of animals, fowl, birds, or reptiles housed in the structure;
- (3) Maintained in a sanitary condition that minimizes flies and reduces odor offensive to an adjacent residence or business.

(Ord. No. 13-15, § 2-1, 11-9-2015)

Sec. 4.08.030. Enclosures for small animals.

(a) An enclosure used to keep fewer than ten small animals must be located at least 30 feet from an adjacent residence or business, excluding the residence or business of the owner or handler of the small animals.

(b) An enclosure used to keep ten or more small animals must be located at least 50 feet from an adjacent residence or business, excluding the residence or business of the owner or handler of the small animals.

(c) This section does not apply to an animal shelter, veterinary clinic, pet store, or institutional or educational research facility.

(Ord. No. 13-15, § 2-3, 11-9-2015)

Sec. 4.08.040. Enclosure for livestock.

(a) Except as provided in subsection (b) of this section, an enclosure used to keep livestock, other than miniature livestock, must be located:

- (1) At least 30 feet from adjoining residential or business property; and
- (2) At least 50 feet from a structure used for human habitation, excluding the residence or business of the owner or handler of the ~~small animals~~ livestock.

(b) An enclosure used to keep miniature livestock (i.e., animals weighing less than 200 pounds) must be located at least 30 feet from a structure used for human habitation, other than a structure owned or occupied by the owner or handler of the livestock.

(Ord. No. 13-15, § 2-4, 11-9-2015)

Sec. 4.08.050. Enclosure for fowl.

An enclosure used to keep two or more fowl must be located at least 30 feet from a residence or business, excluding the residence or business of the fowl's owner or handler.

(Ord. No. 13-15, § 2-5, 11-9-2015)

Sec. 4.08.060. Enclosure for pigeons and similar birds.

(a) An enclosure used to keep two or more but fewer than ten pigeons or birds must be located at least 20 feet from an adjacent residence or business, excluding the residence or business of the owner or handler.

(b) An enclosure used to keep ten or more birds must be located at least 30 feet from an adjacent residence or business, excluding the residence or business of the owner or handler.

(Ord. No. 13-15, § 2-6, 11-9-2015)

Sec. 4.08.070. Grazing livestock.

A person may not stake livestock at a location or in a manner that allows the animal to graze on or reach a public property or property belonging to others unless permission is given.

(Ord. No. 13-15, § 3-1, 11-9-2015)

Sec. 4.08.080. Storage, disposal, etc., of manure.

(a) Any person owning or leasing any stable where livestock is kept will not allow the manure to accumulate in such a manner as to be a nuisance.

(b) It is unlawful for any person to throw or deposit any manure in any street or public place, or to allow manure from any animal under the person's care, control, or custody to remain in any street or public place. No person hauling manure through the streets shall permit the manure to litter the streets.

(Ord. No. 13-15, § 3-2, 11-9-2015)

Sec. 4.08.090. Minimum land area requirements for any kind of livestock.

(a) *General.* The minimum land area to house any livestock is one acre. To house any combination of livestock, the area shall be either one acre or the sum of the required land areas for each animal as listed below, whichever is greater:

- (1) Cattle, swine or oxen, one acre each, provided that un-weaned young will not be counted;
- (2) Horses or ponies, one-half acre each;
- (3) Sheep, goats or llamas, one-quarter acre each, provided that un-weaned young will not be counted.

(b) *Example 1.* The minimum land area required to maintain one goat and one horse shall be one acre. Although the sum of one-quarter acre for the goat and one-half acre for the horse equals three-quarters acres, the minimum land area to house any livestock is one acre.

(c) *Example 2.* The minimum land area to maintain one pig, one horse and two sheep is two acres. This sum is reached by adding one acre for the pig, one-half acre for the horse and one-quarter acre for each of the two sheep.

(Ord. No. 13-15, § 3-4, 11-9-2015)

Sec. 4.08.100. Livestock running at large.

It shall be unlawful for any person owning or in control of any livestock to willfully or negligently allow such livestock to run at large in any area of ~~Linden~~ the city limits, nor shall any person owning or in control of any livestock allow such livestock to wander or stray upon the right-of-way of any public highway lying within the area of the city unless such livestock is in the actual physical charge of some person.

(Ord. No. 13-15, § 3-5, 11-9-2015)

Sec. 4.08.110. Pre-existing livestock.

Pre-existing livestock, prior to date of adoption of the ordinance codified in this chapter, are allowed to remain as long as they do not constitute a nuisance to the neighbors, surrounding businesses and the animals involved.

(Ord. No. 13-15, § 3-6, 11-9-2015)

Sec. 4.08.120. Violation, penalties.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction for

each act herein prohibited of a continuing nature, each day shall be considered a separate offense. ~~A monetary penalty of \$52.00 shall also be imposed for failure to respond to the citation or pay the monetary penalties imposed by the citation.~~

(Ord. No. 13-15, § 4-1, 11-9-2015)

PROOFS

Title 5

BUILDINGS AND BUILDING REGULATIONS

State law reference—Municipal regulation of housing and other structures, V.T.C.A., Local Government Code § 214.001 et seq.; International Residential Code as municipal residential building code, V.T.C.A., Local Government Code § 214.212; International Building Code as municipal commercial building code, V.T.C.A., Local Government Code § 214.216; National Electrical Code applicable statewide for construction, V.T.C.A., Local Government Code § 214.214; municipal authority concerning swimming pool enclosures, V.T.C.A., Local Government Code § 214.101; standards for public pools and spas, 25 Tex. Admin. Code § 265.181 et seq.; municipal authority concerning plumbing and house draining, V.T.C.A., Local Government Code § 214.012; time of essence for issuance of municipal building permit, V.T.C.A., Local Government Code § 214.904; municipality may not adopt maximum sales price ordinance for privately produced housing or residential building lot, V.T.C.A., Local Government Code § 214.905.

CHAPTER 5.04. BUILDINGS AND BUILDING REGULATIONS IN GENERAL (RESERVED)**CHAPTER 5.08. TECHNICAL CODES****Sec. 5.08.010. International Plumbing Code adopted.⁶**

~~That~~ Certain documents, three copies of which are on file in the city hall, ~~City of Linden~~, being marked and designated as International Plumbing Code, as published by the International Code Council, ~~be and is are~~ hereby adopted as the plumbing code of the city for regulating the design, construction, quality of materials, erection, installation, alteration, repair, location, relocation, replacement, addition to, use or maintenance of plumbing systems in the city and providing for the issuance of permits and collection of fees therefor; and each and all of the regulations, provisions, conditions and terms of ~~such the current~~ International Plumbing Code, ~~1997 edition~~, published by the International Code Council, on file in the office of the city, are hereby referred to, adopted and made a part hereof as if fully set out in this section.

(Ord. No. 06-98, § 1, 8-10-1998)

Sec. 5.08.020. International Building Code adopted.

The city does hereby adopt the International Building Code as specified and updated by the International Code Council. Variances will be rare, but when required, the variance will be granted by the city administration. ~~This ordinance supersedes all past City of Linden Building Code Ordinances.~~

(Ord. No. 05-16, 7-11-2016)

CHAPTER 5.12. SUBSTANDARD STRUCTURES**Sec. 5.12.010. Definitions.**

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

Building official. ~~The term "Building Official" shall~~ means the person or persons designated by the city administrator to enforce the provisions of this chapter.

Dangerous building or structure. ~~The term "dangerous building or structure" shall~~ means all buildings or structures which have any of the following defects or lack of facilities:

- (1) All buildings or structures that have become deteriorated through natural causes or by damage through exposure to the elements, especially wind, hail or rain, or damage through fire to the extent that the roof,

⁶ **International Plumbing Code adopted:** This section adopts the 1997 IPC. As of August 29, 2018, under 22 Tex. Admin. Code Rule § 367.2, either the 2012 IPC, or 2012 Uniform Plumbing Code may be adopted.

windows or doors, or portions of the house, building or structure which protect the interior from the weather, would no longer reasonably protect from the weather.

- (2) All buildings or structures which are so structurally deteriorated that they are in danger of collapse, or which cannot be expected to withstand the forces of nature.
- (3) All buildings or structures not wired so as to provide, in operating condition, electrical circuits sufficient to safely carry a load imposed by normal use of appliances and fixtures.
- (4) All buildings or structures in which the floors, walls, ceilings, and all supporting members are not capable of bearing imposed loads safely.
- (5) All buildings or structures so deteriorated or constructed or permitted to be constructed as to constitute a menace to ~~the~~ health or safety, including all conditions conducive to the harboring of rats or mice or other disease-carrying animals or insects, reasonably calculated to spread disease, and including such conditions hazardous to safety as inadequate bracing or use of deteriorated materials.
- (6) All buildings or structures which constitute or in which are maintained fire hazards as that term is defined by the ordinances of the city and fire codes in force.
- (7) All buildings or structures substantially in noncompliance with the requirements of the city's building code, electrical code, plumbing code, fire code, property maintenance code, or other applicable codes of the city such that said buildings or structures constitute a menace or hazard to the public health or safety.
- (8) All buildings or structures so dilapidated or substandard as to be unfit for human habitation.
- (9) All buildings or structures which, because of activities involving the sale, use, or abuse on said premises of illicit drugs or alcohol or other similar activities as certified to by the chief of police, or the fire marshal, or their designee, constitute a fire hazard or a menace to the health, safety, and welfare of the citizens of the city.

(Ord. No. 03-19, 4-15-2019)

Sec. 5.12.020. Substandard buildings/structures.

(a) *General.* Any building/structure or portion thereof which is determined to be a dangerous building in accordance with the adopted building code, or any building or portion thereof including any dwelling unit, guest room, or suite of rooms, or the premises on which the same is located, in which there exists any of the conditions referenced in this section to an extent that endangers the life, limb, health, property, safety or welfare of the public or the occupants thereof shall be deemed and hereby are declared to be substandard buildings.

(b) *Inadequate sanitation.* Buildings/structures or portions thereof shall be deemed substandard when they are unsanitary. Inadequate sanitation shall include, but not be limited to, the following:

- (1) Lack of or improper water closet, lavatory, bathtub or shower in a dwelling unit or lodginghouse.
- (2) Lack of or improper water closets, lavatories and bathtubs or showers per number of guests in a hotel.
- (3) Lack of or improper kitchen sink in a dwelling unit.
- (4) Lack of hot and cold running water to within the rooms of a hotel or bed and breakfast.
- (5) Lack of hot or cold running water to plumbing fixtures in a dwelling unit or apartment complex.
- (6) Lack of adequate heating facilities.
- (7) Lack of or improper operation of required ventilation equipment.
- (8) Lack of minimum amounts of natural light and ventilation as determined by the building official.
- (9) Yard cluttered or encumbered with cars and/or stored items accumulating water/garbage so as to cause a health hazard.
- (10) Lack of required electrical lighting.
- (11) Dampness of habitable room.
- (12) Infestation by insects, vermin or rodents as determined by the building official.

- (13) General dilapidation or improper maintenance.
- (14) Lack of connection to required sewage disposal system.
- (15) Lack of adequate garbage and rubbish storage and removal facilities.
- (16) Partial destruction or damage by fire unrepaired for more than 90 days.

(c) *Structural hazards.* Buildings/structures or portions thereof shall be deemed substandard when they are or contain structural hazards. Structural hazards shall include, but not be limited to, the following:

- (1) Deteriorated or inadequate foundation.
- (2) Defective or deteriorated flooring or floor supports.
- (3) Flooring or floor supports of insufficient size to carry imposed load with safety.
- (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (5) Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety.
- (6) Members of ceilings, roofs, ceiling and roof supports or other original members which sag, split or buckle due to defective material or deterioration.
- (7) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety.
- (8) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration.
- (9) Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety.
- (10) Heating flues and exhausts which list, bulge or settle due to defective material or deterioration.

(d) *Nuisance.* Buildings/structures or portions thereof in which there exists any nuisance as defined by any city ordinance are deemed substandard buildings. The term "nuisance" can also be defined as any overhang or awning covering a public walkway not kept in safe and good condition.

(e) *Hazardous electrical wiring.* Electrical wiring which was installed in violation of code requirements in effect at the time of installation, or which has not been maintained in good condition or which is not being used in a safe manner, shall be considered substandard.

(f) *Hazardous plumbing.* Plumbing which was installed in violation of code requirements in effect at the time of installation or which has not been maintained in good condition or which is not free of cross-connections ~~of~~ or siphonage between fixtures shall be considered substandard.

(g) *Hazardous mechanical equipment.* Mechanical equipment which was installed in violation of code requirements in effect at the time of installation, or which has not been maintained in good and safe condition shall be considered substandard.

(h) *Faulty weather protection.* Buildings/structures or portions thereof shall be considered substandard when they have faulty weather protection, which shall include, but not be limited to, the following:

- (1) Grossly deteriorated, crumbling or loose plaster, so as to cause the imminent demolition of walls.
- (2) Deteriorated or ineffective waterproofing of exterior walls, roof, foundations or floors, including broken windows or doors.
- (3) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other approved protective covering.
- (4) Broken, rotted, split or buckled exterior wall coverings or roof coverings.

(i) *Fire hazard.* Any building or portion thereof, device, apparatus, equipment, combustible waste or vegetation which, in the opinion of the chief of the fire department or the fire marshal, is in such a condition as to cause a fire or explosion or provide a ready fuel to augment the spread and intensity of fire or explosion arising from any case shall be considered a substandard building.

(j) *Faulty materials or construction.* The use of materials of construction except those which are specifically allowed or approved by the building official and the currently adopted building code and which have been adequately maintained in good and safe condition shall cause a building to be substandard.

(k) *Hazardous or insanitary premises.* The accumulation of weeds, vegetation, junk, dead organic matter, debris, garbage offal, rat harborages, stagnant water, combustible materials and similar materials or conditions on a premises constitutes a nuisance to be abated as provided by this chapter. Uncut lawns in excess of ten inches can harbor hazards; lawn area must be cut regularly.

(l) *Inadequate exits.*

(1) Except for those buildings/structures or portions thereof which have been provided with adequate exit facilities conforming to the provisions of this Code, buildings or portions thereof whose exit facilities were installed in violation of code requirements in effect at the time of their construction or whose exit facilities have not been increased in number or width in relation to any increase in occupant load due to alterations, additions or change in use or occupancy subsequent to the time of construction shall be considered substandard.

(2) Notwithstanding compliance with code requirements in effect at the time of their construction, buildings or portions thereof shall be considered substandard when the building official finds that an unsafe condition exists through an improper location of exits, a lack of an adequate number or width of exits or when other conditions exist which are dangerous to human life.

(m) *Inadequate fire protection or firefighting equipment.* Buildings/structures or portions thereof shall be considered substandard when they are not provided with the fire-resistive construction or fire-extinguishing systems or equipment required by the codes of the city, except those buildings or portions thereof which conformed with all applicable laws at the time of their construction and whose fire-resistive integrity and fire-extinguishing systems or equipment have been adequately maintained and improved in relation to any increase in occupant load, alteration or addition, or any change in occupancy.

(n) *Improper occupancy.* All buildings/structures or portions thereof occupied by living, sleeping, cooking or dining purposes which were not designed or intended to be used for such occupancies shall be considered substandard.

(Ord. No. 03-19, § 1, 4-15-2019)

Sec. 5.12.030. Notices and orders of building official.

(a) *Commencement of proceedings.* Whenever the building official has inspected or caused to be inspected any building and has found and determined that such building is:

- (1) Dangerous, substandard or unfit for human habitation; or a hazard to the public health, safety and welfare;
- (2) Regardless of its structural condition, unoccupied by its owners, lessees or other invitees and is unsecured from unauthorized entry to the extent that it could be entered or caused by vagrants or other uninvited persons as a place of harborage or could be entered or used by children; or
- (3) Boarded up, fenced or otherwise secured in any manner if:
 - a. The building constitutes a danger to the public even though secured from entry; or
 - b. The means used to secure the building are inadequate to prevent unauthorized entry or use of the building in the manner described by subsection (a)(2) hereof;

he shall commence proceedings to cause the repair, rehabilitation, vacation or demolition of the building.

(b) *Notice.* The building official shall issue a notice directed to the record owner of the building. The notice shall contain:

- (1) The street address and legal description sufficient for identification of the premises upon which the building is located;
- (2) A statement that the building official has found the building to be substandard with a brief and concise description of the conditions found to render the building substandard;

- (3) A statement of the action required to be taken as determined by the building official;
- (4) A requirement that the owner or person in charge of the building or premises secure required permits and commence the required action within 15 days from the date of such notice and that all work be completed within such time as the building official shall determine is reasonable;
- (5) If the building official has determined that the building or structure must be vacated, the notice shall contain a requirement that the building be vacated within such time from the date of the notice as determined by him to be reasonable;
- (6) A statement advising that if any required repair or demolition work is not commenced within the time specified the building official will, without further notice, order the building vacated and posted to prevent further occupancy until the work is completed;
- (7) A statement advising that if any required repair or demolition work is not commenced or completed within the time specified, proceedings will be commenced to have the building repaired or demolished and the cost of such assessed as a charge against the land.

(c) *Service of notice.* The notice and any amended notice shall be served upon the record owner.

(d) *Methods of service.* Service of notice shall be made upon all persons entitled hereto either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested, to each such person at his address as it appears on the last tax roll of the city or as known to the building official. If no address of any such person so appears or is known to the building official, then a copy of the notice and order shall be published twice within ten consecutive days in a newspaper of general circulation in the city. Failure to receive such notice or order shall not affect the validity of any proceeding taken under this section. Service by certified mail in the manner provided in this section shall be deemed effective on the date of mailing. Service by publication shall be deemed effective on the date of the second publication.

(e) *Order to vacate.* An order to vacate immediately may be issued only if the building or structure is in such condition as to make it immediately dangerous to the life, limb, property or safety of the public or of the occupants.

(f) *Posting.* Every notice to vacate shall, in addition to being served as provided in subsection (d) of this section, be posted at or upon each exit of the building, and shall be in substantially the following form:

DO NOT ENTER

UNSAFE TO OCCUPY

It is a Misdemeanor to Occupy this Building or to Remove or Deface this Notice.

Building Official, City of Linden

(Ord. No. 03-19, § 2, 4-15-2019)

Sec. 5.12.040. Violations.

No person shall remain in or enter any building/structure which has been posted as provided in LMC 5.12.030(f), except that entry may be made to repair, demolish or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the adopted building code. Any person violating this section shall be guilty of a Class C misdemeanor, and any person who fails to meet the requirements made in any notice duly served as provided in this chapter shall be guilty of a misdemeanor for each day such failure continues after the date the notice requires compliance. Any violation of this chapter shall be punished according to LMC 1.00.090.

(Ord. No. 03-19, § 3, 4-15-2019)

Sec. 5.12.050. City repair or demolition.

(a) If the required repair or demolition has not been commenced within 15 days from the date of any notice served pursuant to this chapter, or if required action has not been completed as required by such notice, the building

official shall commence proceedings as follows: The building official shall cause such building to be vacated by posting at each entrance thereto a notice reading:

SUBSTANDARD BUILDING

It is a Misdemeanor to Occupy this Building or to Remove or Deface this Notice.

Building Official, City of Linden

(b) The city council shall be notified and hold a public hearing to decide whether to order the repair, removal or demolition specified in such notice to be done and whether to cause the cost of such work to be paid and levied as a special assessment against the property.

- (1) The city council will set a date and time for a public hearing to consider ordering the improvement and assessment of any property the owner has failed to improve as required by notices described in this chapter. Such public hearing shall be held not less than 15 nor more than 60 days ~~from the date~~ from the date notice was served to the ~~owner~~/owners.
- (2) A title search shall be conducted to discover each mortgagee, and notice of the public hearing to be held before the city council shall be given by causing a notice thereof to be served on the owner of such property and upon each mortgagee and lienholder having an interest in the building or in the property on which the building is located. Such notice shall be mailed to such owner and lienholder by certified mail, return receipt requested. The notice shall include the date, time and place of such hearing and shall state that the owner, lienholder or mortgagee will be required to submit proof of the scope of any work that may be required to comply with ~~the ordinance~~ this chapter and the time it will take to reasonably perform the work together with:
 - a. An identification, which is not required to be a legal description of the building and the property on which it is located;
 - b. A description of the violation of city standards that is present at the building; and
 - c. A statement that the city will vacate, secure, remove or demolish the building or relocate the occupants of the building if the ordered action is not taken within a reasonable time.
- (3) The city administrator shall, at the time notices are mailed, file a notice of the hearing in the county clerk's office, describing the land, owner and stating the purpose, time and place of the hearing.
- (4) After conducting a hearing authorized under this section, if the council finds that the allegations are true, the council shall require the owner, lienholder or mortgagee of the building to, within 30 days:
 - a. Secure the building from unauthorized entry; or
 - b. Repair, remove or demolish the building, unless the owner or lienholder establishes at the hearing that the work cannot reasonably be performed within 30 days.
- (5) If the council allows the owner, lienholder or mortgagee more than 30 days to repair, remove or demolish the building, the council shall establish specific time schedules for the commencement and performance of the work and shall require the owner, lienholder or mortgagee to secure the property in a reasonable manner from unauthorized entry while the work is being performed as determined by the council.
- (6) The owner, lienholder or mortgagee shall not be allowed more than 90 days to repair, remove or demolish the building or fully perform all work required to comply with the order unless the owner, lienholder or mortgagee:
 - a. Submits a detailed plan and time schedule for the work at the hearing; and
 - b. Establishes at the hearing that the work cannot reasonably be completed within 90 days because of the scope and complexity of the work.
- (7) If the council allows the owner, lienholder or mortgagee more than 90 days to complete any part of the work required to repair, remove or demolish the building, the owner, lienholder or mortgagee shall be required to regularly submit progress reports to the city council in writing the by the first Monday of

each month. These will be reviewed at regularly scheduled city council meetings to demonstrate that the owner, lienholder or mortgagee has complied with the time schedules established for commencement and performance of the work. The city council may require that the owner, lienholder or mortgagee appear before the council or its designee to demonstrate compliance with the time schedule.

- (8) In a public hearing to determine whether a building complies with the standards set out in this chapter, 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 ordinance~~ this chapter and the time it will take to reasonably perform the work. The council shall specify reasonable time for the building 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 for the ordered action to be taken by the mortgagees or lienholder in the event the owner fails to comply with the order within the time provided for action by the owner.
- (9) The council's requirement shall be reduced to writing and shall be considered an order. Within ten days after the date that the order is issued the city administrator shall:
 - a. File a copy of the order in ~~Linden~~ city hall; and
 - b. Publish in a newspaper of general circulation in the municipality in which the building is located a notice containing:
 1. The street address or legal description of the property;
 2. The date of the hearing;
 3. A brief statement indicating the results of the order; and
 4. Instructions stating where a complete copy of the order may be obtained.
- (10) After the hearing, the city secretary shall promptly mail, by certified mail, return receipt requested, a copy of the order to the owner of the building, and if the owner does not take the ordered action within the allotted time, the municipality shall promptly mail, by certified mail, return receipt requested, a copy of the order to any lienholder or mortgagee of the building.

(Ord. No. 03-19, § 4, 4-15-2019)

Sec. 5.12.060. Performance.

(a) *Procedure.* If the building is not vacated, secured, repaired, removed or the occupants are not relocated within the allotted time pursuant to the provisions of the order of the city council, the work may be accomplished by city personnel or by private contract as may be deemed necessary. Rubble and debris shall be removed from any premises and the lot shall be cleaned. The building, building contents or building materials may be sold if removal is ordered and the proceeds shall be used to offset other costs of cleaning the lot. The lot will be reduced to level, mowable land.

(b) *Costs.* The cost of such work shall be paid from the city funds and shall constitute a special assessment and a lien against such property to secure its payment from the date the lien is recorded in the county clerk's office. Such liens shall be privileged as provided by law. The city attorney may bring an action in any court of proper jurisdiction to foreclose the lien and to recover the costs incurred by the city.

(Ord. No. 03-19, § 5, 4-15-2019)

Sec. 5.12.070. Notice of lien.

A sworn account of the expense incurred by the city in the repair, removal or demolition of any building done pursuant to the provisions of this chapter shall be filed by the building official with the city administrator. The city administrator shall file such notice of the city's assessment and lien in the records of the county clerk. Such notices shall read substantially as follows:

STATE OF TEXAS

COUNTY OF CASS

NOTICE OF LIEN

_____, Building Official for the City of Linden, makes oath and says that the City of Linden has incurred as expense of \$_____ in improving property, the legal description of which is _____. Such expense was incurred to repair, remove or demolish substandard buildings after notices pursuant to ordinance and to Chapter 214, Texas Local Government Code, were served on the record owner thereof, _____, whose address is _____.

Building Official

City of Linden, Texas

SWORN AND SUBSCRIBED before me by the said _____ this ____ day of _____, 20__, to certify which witness my hand and seal of office.

Notary Public

State of Texas

(Ord. No. 03-19, § 6, 4-15-2019)

Sec. 5.12.080. Prohibitions against service or use.

No utility service, building permit, use for storage or certificate of occupancy shall be allowed for any such property until any lien imposed pursuant to this chapter is discharged. All articles within the building lot are also held under said lien.

(Ord. No. 03-19, § 7, 4-15-2019)

Title 6

BUSINESSES AND BUSINESS REGULATIONS

State law reference—Municipal governing body may impose and collect occupation taxes, V.T.C.A., Tax Code § 302.101; local occupational tax prohibited unless specifically permitted by state law, V.T.C.A., Tax Code § 101.008; state regulation of massage therapists does not preempt local zoning and limited regulation of massage establishments, V.T.C.A., Occupations Code § 455.005; municipal regulatory authority concerning food service employees not preempted by state regulation, V.T.C.A., Health and Safety Code § 438.037; municipality which is member of public health district not prohibited from regulating or administering permit system concerning food service establishments, V.T.C.A., Health and Safety Code § 437.004(d); Type A municipality may license, tax and regulate assorted amusements and exhibitions, V.T.C.A., Local Government Code § 215.032.

CHAPTER 6.04. BUSINESSES AND BUSINESS REGULATIONS IN GENERAL**Sec. 0-0. Public dances.**

~~Any person, firm, association, or corporation, which shall promote, sponsor or hold a dance within the City of Linden for which an admission charge is made, shall first obtain a permit with the City of Linden, Texas, to hold or sponsor such dance. No charge shall be made for such permit.~~

~~Any person, firm, association, corporation or partnership, that shall hold, sponsor or promote a dance primarily for persons under 21 years of age, shall have four adult chaperons over the age of 25, that shall register each party by name and address each time they enter or leave such public place of dancing.~~

~~The form of permit shall contain substantially the wording of this ordinance, and any person, firm, association or corporation, that refuses to abide by the agreements of such, shall be refused said permit by the City of Linden. The permit shall be signed by both the City of Linden, acting through its City Secretary, and one or more of the parties sponsoring such dance.~~

~~Any person, firm, association or corporation, that shall fail to secure such permit, or shall fail to abide by the terms and conditions of this ordinance, shall forfeit their right immediately to hold such dance, and the City Marshal of the City of Linden, Texas, shall have the authority to clear such building of all people and prohibit further dancing therein.~~

~~The fact that certain public dances have been improperly chaperoned and conducted in the past, in the City of Linden, Texas, creates an emergency, and all readings of this ordinance, except the final reading, are waived and such shall take effect immediately upon signatures.~~

~~(Ord. No. 2 67, 3 16 1967)~~

Sec. 6.04.010. County regulation of Food establishments in city.

~~The Cass County Health Department is the Regulatory Authority for the enforcement of the FOOD order passed by the city council of the city of Linden and that the food order of Cass County shall apply within the town of Linden.~~

~~(Ord. NO. 03 96, 10 15 1996)~~

The city requires food establishments to operate pursuant to state licensing and health laws and regulations, for which inspections are performed by the state.

CHAPTER 6.08. OIL AND GAS DRILLING⁷

State law reference—Oil and gas drilling, regulation, preemption, V.T.C.A., Natural Resources Code § 81.0523.

⁷ **Oil and Gas Drilling:** This article contains provisions carried over from a 2005 ordinance, and concerns a topic which received considerable revision in state statutes in 2015 upon the passage of HB 40, which effectively

preempted much local regulation of oil and gas operations, but for "surface activity" – e.g., noise, light, traffic related to operations – and then only within strict limits. Local regulations must be "commercially reasonable," and not preempted under state or federal law.

One factor in defense of the city's "vintage" provisions in this article, under new state law, is that ordinances in effect for at least five years – which allowed oil and gas operations to continue – are "considered prima facie to be 'commercially reasonable.'"

Oil and gas law is a specialty beyond the scope of Municipal Code Corporation's expertise; accordingly, we strongly recommend that this brief article be reviewed by legal counsel with appropriate knowledge of oil and gas operations, in order to better determine if the existing provisions fall within a reasonable determination of being "commercially reasonable."

For your information, V.T.C.A., Natural Resource Code § 81.0523 as established by HB 40 in 2015, follows:

Sec. 81.0523. EXCLUSIVE JURISDICTION AND EXPRESS PREEMPTION.

(a) In this section:

(1) "Commercially reasonable" means a condition that would allow a reasonably prudent operator to fully, effectively, and economically exploit, develop, produce, process, and transport oil and gas, as determined based on the objective standard of a reasonably prudent operator and not on an individualized assessment of an actual operator's capacity to act.

(2) "Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities.

(b) An oil and gas operation is subject to the exclusive jurisdiction of this state. Except as provided by Subsection (c), a municipality or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision.

(c) The authority of a municipality or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a municipality may enact, amend, or enforce an ordinance or other measure that:

(1) regulates only aboveground activity related to an oil and gas operation that occurs at or above the surface of the ground, including a regulation governing fire and emergency response, traffic, lights, or noise, or imposing notice or reasonable setback requirements;

(2) is commercially reasonable;

(3) does not effectively prohibit an oil and gas operation conducted by a reasonably prudent operator; and

(4) is not otherwise preempted by state or federal law.

(d) An ordinance or other measure is considered prima facie to be commercially reasonable if the ordinance or other measure has been in effect for at least five years and has allowed the oil and gas operations at issue to continue during that period.

Added by Acts 2015, 84th Leg., R.S., Ch. 30 (H.B. 40), Sec. 2, eff. May 18, 2015.

Sec. 6.08.010. Permit required for oil and gas well drilling.

Before drilling an oil and/or gas well within the city limits of the City of Linden, Texas, a permit shall be obtained from the city clerk of the City of Linden, Texas, authorizing the drilling of said well. A permit fee of \$2,500.00 shall be paid to the city for the issuance of the permit and the person applying for the permit shall furnish a surety bond, approved and filed with the city, requiring the person proposing to drill the well to carry a minimum amount of \$1,000,000.00 insurance coverage covering any potential loss for personal injury or property damage resulting from the drilling of the well.

(Ord. No. 02-05, § 1, 3-14-2005)

Sec. 6.08.020. Restrictions on oil and gas well drilling.

Any person receiving a permit as designated herein is hereby prohibited from drilling a well within 50 feet and placing any tank batteries from within 100 feet of any residence or a commercial or public structure, including, but not limited to, hospitals, unless a signed and notarized release is obtained in advance from the owner of such residence, or commercial or public structure. Drilling of oil or gas wells or other similar types of shaft mining shall meet the following minimum requirements: minimum site of at least five acres, with minimum lot width of 200 feet; minimum lot depth of 200 feet; and minimum front, side, side street, and rear yard of 50 feet; provided, however, that any structure exceeding 50 feet in height shall maintain setbacks from all property boundaries on streets equal to the height of the structure, and furthermore provided a plan is submitted and approved by the city council of Linden, Texas, showing the reclamation of the site and its future use after the extraction has been completed.

(Ord. No. 02-05, § 2, 3-14-2005)

Sec. 6.08.030. Council power to refuse issuance of permit.

Notwithstanding the provisions of LMC 6.08.020, the city council retains the right to refuse the issuance of any permit to drill a well where, by reason of such particular proposed location, and the character and value of the permanent improvement already erected on or adjacent to the particular location in question, for school, hospital, park, or other civic purposes, or for health or safety reasons, or any of them, where the drilling of such wells on such particular location might be injurious or be a disadvantage to the city or its inhabitants as a whole, or to a substantial number of its inhabitants or would not promote the orderly growth and development of the city. The right of refusal to issue a permit based upon these reasons shall rest solely within the sound discretion of the members of the City Council of Linden, Texas.

(Ord. No. 02-05, § 3, 3-14-2005)

CHAPTER 6.12. VENDORS AND SOLICITORS

State law reference—Type A municipality may regulate hawkers, peddlers, and pawnbrokers, V.T.C.A., Local Government Code § 215.031.

Sec. 6.12.010. Definitions.

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

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

Merchandise includes, but is not limited to, any articles or subjects of commerce or trade, goods, commodities, products, wares, or any other item of personal property to be sold, exhibited, or offered for sale.

Nonprofit solicitor means any person who solicits for contributions or sells for a recognized organization. (Schools, churches, scouts, etc.)

Solicitor means any person who shall solicit to sell, attempt to sell, or accept orders for or subscriptions to any book, magazine, periodical, or for any merchandise when delivery is to be made in the future.

Temporary means any act of vending or soliciting transacted or conducted in the city upon premises for which definite arrangements have not been made in writing for at least 30 days for the purpose of transacting or conducting such business of vending or soliciting.

Vendor means any person who engages in temporary business in the city of selling, exhibiting, or offering or soliciting for sale any merchandise, including:

- (1) Any person who engages in such business upon or from a truck or other vehicle within the limits of the city;
- (2) Any person who hires, rents, leases or occupies any room or space in any building, structure, vacant lot or any other property whatsoever in the city, in, through, or from which any merchandise may be sold, offered, or exhibited for sale; or
- (3) Any person who carries any merchandise with him, whether such merchandise is carried on foot or motor vehicle, or other conveyance whatsoever, from place to place, or from house to house, within the city, exhibiting or offering his own or his principal's merchandise for sale, and who then and there sells and delivers it to other persons or dealers.

(Ord. No. 07-11, § 0001, 7-11-2011)

Sec. 6.12.020. Hours and places of activity for solicitors and vendors.

(a) All vending or solicitations to private residences, including, but not limited to, homes, duplexes, rooming houses and apartments, shall occur between the hours of 8:00 a.m. and 7:00 p.m., Monday through Saturday (no door-to-door vending or soliciting on Sundays), unless otherwise posted by the private property owner or by someone with apparent authority to act for the owner. This regulation does not apply where the vendor or solicitor is on the property by the express, prior invitation of the person residing on the premises.

(b) No person shall solicit or engage in the trade of a vendor on any public streets or rights-of-way or from medians in the streets, in a manner which blocks, impedes, obstructs or unduly hinders passage on public streets and rights-of-way.

(c) Solicitors or vendors shall not block, obstruct or unduly hinder passage on public sidewalks or passageways.

(d) It shall be unlawful for any person to violate any provision of this section.

(Ord. No. 07-11, § 0002, 7-11-2011)

Sec. 6.12.030. Prohibited conduct.

A solicitor or vendor shall not:

- (1) Make physical contact with the person being solicited unless that person's permission is obtained;
- (2) Misrepresent the purpose of the solicitation or offer to sell;
- (3) Misrepresent the affiliation of the vendor or solicitor;
- (4) Continue efforts to sell to or solicit from an individual once that individual informs the vendor or solicitor that he does not wish to give anything to or to buy anything from that vendor or solicitor; or refuse to leave the premises owned or under the control of another after having been notified by said person to leave the same;
- (5) Represent the issuance of any permit or registration under this chapter as an endorsement or recommendation of the sale or solicitation.

(Ord. No. 07-11, § 0003, 7-11-2011)

Sec. 6.12.040. Permit required.

No person shall engage in, transact, or conduct the business or occupation of a solicitor or vendor, as herein defined, either as principal or as agent, servant or employee of any other person, without first having obtained a permit therefor, unless such person is exempt, under the provisions of this chapter, from having obtained such a permit. A permit is not required where the solicitor is on the property by express, prior invitation of the person

residing on such premises.

(Ord. No. 07-11, § 0004, 7-11-2011)

Sec. 6.12.050. Application for permit.

(a) Any person desiring to engage in, transact or conduct the business or occupation of a solicitor or vendor within the city shall file a written application for a permit to do so at ~~Linden~~ city hall. The application shall show:

- (1) The name and address of the applicant; if the applicant is an association, company or corporation, then it shall state its name along with the names of the persons who will be soliciting or vending in the city;
- (2) The name and address of the employer or firm which such applicant represents;
- (3) The nature of the merchandise to be sold or offered for sale or the nature of the services to be furnished;
- (4) Whether such application upon any such order so obtained will demand, accept or receive payment or deposit of money in advance of final delivery;
- (5) The period of time such applicant so wishes to act as a solicitor in the city;
- (6) A physical description of the applicant which includes race, sex, height, weight, hair and eye color, date of birth, driver's license or ID number and the name of the issuing state, or other identification acceptable to the chief of police; and
- (7) Where required by law, a current state sales tax number.

(b) No person under the age of 18 years will be issued a permit.

(c) Each application shall be accompanied by a nonrefundable fee as currently established or as hereafter adopted by resolution of the city council from time to time. No permit hereunder shall be issued until such fee has been paid by such applicant.

(d) A permit applied for under this chapter shall be issued by the city secretary after the application is completed, unless it is determined that the applicant has provided false information on his application.

(e) A permit requested under this chapter shall be issued for the length of time on the permit, not to exceed one week, except for a nonprofit solicitor. Upon expiration of one permit, the solicitor or vendor may apply for a new permit in the manner prescribed by this section.

(Ord. No. 07-11, § 0005, 7-11-2011)

Sec. 6.12.060. Investigation of applicant.

(a) *Investigation.* Upon receipt of the application and such other information required by this chapter, the chief of police or his designee may cause such investigation to be made as he deems necessary for the protection of the public good.

(b) *Grounds for disapproval.* The following shall be grounds for disapproval of an application for a permit under this chapter:

- (1) An applicant is under 18 years of age;
- (2) An applicant is overdue in the payment to the city of any taxes, fees, fines or penalties;
- (3) An applicant has failed to answer or falsely answered a question for information on the application form provided;
- (4) The required permit fee has not been paid;
- (5) An applicant has failed to comply with any applicable laws, ordinances, or regulations of the city; or
- (6) An applicant, his employees or agents, individually or cumulatively, have been convicted of any felony or any offense involving moral turpitude within two years immediately preceding the application. A plea of guilty or no contest shall constitute a conviction for purposes of this section.

(c) *Notification of applicant.* The chief of police or his designee shall endorse upon the application his approval or disapproval. If disapproved, he shall endorse the reason on the permit or application and notify the

applicant of the disapproval.

(Ord. No. 07-11, § 0006, 7-11-2011)

Sec. 6.12.070. Denial of permit.

Should an applicant be denied a permit or have a permit revoked, he may appeal that action to the city council by submitting a letter to the city secretary's office within ten days of the action complained of. A hearing on the denial will then be scheduled to be held within 15 days of the date of receipt of the notice of appeal. The city will render a decision on the appeal within ten days of said hearing.

(Ord. No. 07-11, § 0007, 7-11-2011)

Sec. 6.12.080. Revocation of permit.

(a) Where, after issuance of any permit under the provisions of this chapter, it is determined that the applicant has given false or misleading information on his application or not abided by the terms of the permit, any permit issued upon his application shall be revoked.

(b) Where it is found that a solicitor or vendor applying for a permit has been convicted of theft, fraud or a violation of any state penal law in connection with the solicitation for which the permit was issued, that person's permit shall be revoked.

(Ord. No. 07-11, § 0008, 7-11-2011)

Sec. 6.12.090. Nontransferable permit.

Any permit issued under the provisions of this chapter shall be personal to the applicant and shall not be assigned or transferred to any other person, firm, corporation or association. Any attempted ~~assigned~~ assignment or transfer shall render the permit void.

(Ord. No. 07-11, § 0009, 7-11-2011)

Sec. 6.12.100. Exemptions from permit.

The permit required by this chapter shall not require a fee ~~of~~ for the following:

- (1) ~~Sells~~ Sales representatives who sell or exhibit for sale goods, wares or merchandise to persons engaged in the business of buying, selling and dealing in the same within the city.
- (2) Persons offering for sale agricultural products, articles ~~of~~ or food grown or produced by such persons.
- (3) Persons living within the city limits of Linden or Linden-Kildare school district are exempt from paying fees, but are required to obtain a permit from the city.
- (4) A nonprofit solicitor - any person or group who solicits for contributions or sells for a recognized organization (schools, churches, scouts, etc.). The time period a permit can be issued for these groups will be determined by the chief of police and city hall.
- (5) Special events such as fairs, festivals, rodeos, musical events, etc., will be governed by the rules and regulations set forth by the city.

(Ord. No. 07-11, § 0010, 7-11-2011)

Sec. 6.12.110. Penalty.

Any person, firm or corporation violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 nor more than \$500.00, plus court costs. Each ~~day that such violation continues unabated shall constitute a separate offense~~ occurrence is a separate violation.

(Ord. No. 07-11, § 0011, 7-11-2011)

Title 7

CEMETERIES

State law reference—Local regulation of cemeteries, V.T.C.A., Health and Safety Code § 713.001 et seq.

(RESERVED)

~~Sec. Prohibited conduct in cemeteries.~~

~~It shall be unlawful for any person to possess or consume any alcoholic beverage in any place used or intended for the burial of the dead within the City of Linden, Texas.~~

~~It shall be unlawful for any person to dispose of any alcoholic beverage container in any place used or intended for the burial of the dead within the City of Linden, Texas.~~

~~It shall be unlawful for any person to loiter or loaf in any place used or intended for the burial of the dead within the City of Linden, Texas and the term loiter and loaf shall mean any person who is found in or upon the grounds of any place used or intended for the burial of the dead unless such person shall be in some manner paying respects to the dead.~~

~~Any person found guilty of the violation of any section of this ordinance shall be fined not less than \$25.00 and not more than \$100.00.~~

~~(Ord. No. 2-56, § 14, 2-16-1956)~~

Title 8

COURTS

State law reference—Court technology fund, Vernon's Ann. C.C.P. art. 102.0172; municipal court building security fund, Vernon's Ann. C.C.P. art 102.017.

Sec. 8.00.010. Court building security fund fee.

All persons hereafter convicted of a misdemeanor offense in the municipal court of ~~Linden, Texas,~~ the city are ordered to pay a \$3.00 security fee as a cost of court, and ~~that~~ all fees collected in connection therewith shall be deposited in a fund to be known as the municipal court building security fund, which may be used only to finance those items listed in Vernon's Ann. C.C.P. art. 102.017 when used for the purposes of providing security services for the building housing the municipal court.

(Ord. No. 07-99, 7-12-1999)

Sec. 8.00.020. Court technology fund established.

(a) As authorized by Vernon's Ann. C.C.P. art. 102.0172, there is hereby created a municipal court technology fund. Each defendant convicted of a misdemeanor offense in the municipal court of the city shall pay a \$4.00 technology fee as court costs in addition to any other court cost payable in connection with that cause; which fee shall be paid to the municipal treasurer or any other municipal official who discharges the duties commonly delegated to the municipal treasurer, for deposit in a fund to be known as the municipal court technology fund. For purposes of this court cost fee, a person is considered convicted under any of the circumstances provided in Vernon's Ann. C.C.P. art. 102.0172(b).

(b) The fund created by this section shall be administered under the direction of the city council and may only be used to finance the purchase of technological advancements for a municipal court or municipal court of record, including computer systems, computer networks, computer hardware, computer software, imaging systems, electronic kiosks, electronic ticket writers, and docket management systems.

(Ord. No. 01-01, 8-14-2000)

Title 9

ENVIRONMENT

State law reference—Power of Type A municipality to define and abate nuisance, V.T.C.A., Local Government Code § 217.002; municipal power concerning weeds and other unsanitary matter, V.T.C.A., Health and Safety Code § 342.004; assessment of expenses and lien for abatement by municipality, V.T.C.A., Health and Safety Code § 342.007; persons not to permit abandoned property to become public health nuisance, V.T.C.A., Health and Safety Code § 341.013(e); junked vehicles as nuisance, V.T.C.A., Transportation Code § 683.072; abatement of nuisance of junked vehicles, V.T.C.A., Transportation Code §§ 683.071--683.078.

CHAPTER 9.04. ENVIRONMENT IN GENERAL (RESERVED)**CHAPTER 9.08. NOISE⁸**

State law reference—Type A municipality may regulate certain noises, V.T.C.A., Local Government Code § 217.003(d); restricted regulation of sport shooting ranges, V.T.C.A., Local Government Code § 250.001.

Sec. 9.08.010. Unreasonable noise prohibited.

The creation of any unreasonable loud, disturbing ~~and unnecessary~~ noises in the city is hereby prohibited. Noises of such character, intensity and duration as are reasonably calculated to be detrimental to the life or health of any ordinary reasonable person are hereby prohibited.

(Ord. No. 11-97, § 1, 9-8-1997)

Sec. 9.08.020. Enumeration of specific noises.

(a) The following acts, among others, are declared to be loud, disturbing ~~and unnecessary~~ noises in violation of this chapter; provided, however, that such enumeration shall not be construed to be exclusive of other noises, to-wit:

- (1) The sounding of any horn or signal device on any automobile, motorcycle, bus, streetcar or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal after or as brakes are being applied and deceleration of the vehicle is intended; the creation by means of any such signal device of any unreasonably loud or harsh sound; and the sounding of such device for any ~~unnecessary and~~ unreasonable period of time.
- (2) The playing of any radio, electronic device, cassette player, phonograph, loudspeaker, or amplifier of sound, or any musical instrument in such manner, or with such volume, as to create a noise such as is reasonably calculated to disturb a person of ordinary disposition under the same or similar circumstances residing in a dwelling, a business establishment or other type of residence in the vicinity.
- (3) The use of any automobile, motorcycle, streetcar or vehicle so out of repair, so loaded or operated in such manner as to create loud ~~or unnecessary~~ noises such as spinning or squealing of tires, grating, grinding, rattling or other noise.
- (4) The discharge into the open air of the exhaust of any steam engine, stationary internal combustion engine,

⁸ **Noise:** Out of an abundance of caution, the city may wish to excise the word "unnecessary." "This phrase ["unnecessary noise"] does not provide any boundaries that allow ordinary individuals or law enforcement personnel to determine what conduct is proscribed. . . . What may be deemed unnecessary noise to the officer may seem perfectly reasonable to another officer or the public in general. Moreover, when is noise considered unnecessary? Not only do people differ upon what is unnecessary noise at one period of the day, but it is reasonable to assume that individuals would have varying opinions of what is unreasonable depending on the time of day. . . . Furthermore, the conditions of the environment also effect [sic] what is reasonable. . . ." *Meisner v. State*, 907 S.W.2d 664, 669 (Tex.App.-Waco, 1995).

motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.

- (5) The creation of any excessive noise on any street adjacent to any school, institution of learning, or court while the same are in session, or adjacent to any hospital, which unreasonably interferes with the working of such institution, provided conspicuous signs are displayed in such streets indicating that the same is a school, hospital or court street.
- (6) The use of loudspeakers or amplifiers on trucks or other vehicles, except where specific license is granted by the chief of police.

(b) Any person violating any provision of this section shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished according to LMC 1.00.090. ~~fined in a sum of not more than \$100.00 per violation.~~

(c) The use of engine compression, motor brakes, or "Jake" brakes by any truck or any other vehicle within the city limits of ~~City of Linden, Linden, Texas~~ is prohibited, and an appropriate sign shall be posted at all entering locations of the city limits of ~~City of Linden, Texas,~~ prohibiting the use of said motor brakes or Jake brakes.

(Ord. No. 11-97, § 2, 9-8-1997; Amend. 11-97, § 1, 6-14-2004)

PROOFS

Title 10

FIRE PREVENTION AND PROTECTION⁹

State law reference—Municipal fire protection by Type A municipality, V.T.C.A., Local Government Code §§ 342.001--342.005; state law does not preempt municipal ordinances regulating use of fireworks, V.T.C.A., Occupations Code § 2154.004.

CHAPTER 10.04. FIRE PREVENTION AND PROTECTION IN GENERAL**Sec. 10.04.010. Reward, arson arrest and conviction.¹⁰**

The city hereby offers a reward of \$250.00 for the arrest and conviction of any person ~~or persons~~ found guilty of committing the crime of arson within the corporate limits of the city. This reward is a standing offer, and shall be paid out of the fire department fund of the city.

(Ord. No. 3-67, 4-17-1967)

Sec. 10.04.020. Fire department submittal of invoices to property owners' insurance carriers.

The city allows the authorized agents of the city volunteer fire department to submit invoices to the property owner's insurance carrier that provides payments for such fire protection and emergency services within the city and the city volunteer fire department's emergency response area. Such charges, if any, are associated with fire suppression, rescue, extrication, or hazardous material containment or repair as a result of services provided by, or which may be incurred by, the city volunteer fire department.

(Ord. No. 05-14, 5-12-2014)

Sec. 10.04.030. Fireworks prohibited.

Discharge of fireworks is prohibited in the city.

CHAPTER 10.08. PROHIBITED USE OF FIRE EQUIPMENT AND VEHICLES**Sec. 10.08.010. Definitions.**

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

Equipment means any thing or apparatus on a fire truck used in connection with the fighting of a fire.

Fire department means the city volunteer fire department.

Fire trucks means those trucks owned and operated by the city volunteer fire department.

Non-registered member means any person whose name does not currently appear on the rolls of the city volunteer fire department as a member in good standing, such rolls to be kept by the fire chief or under his direction.

(Ord. No. 1-56, § 1, 1-3-1956)

Sec. 10.08.020. Violations.

(a) It shall hereafter be unlawful for any non-registered member of the fire department to drive a fire truck belonging to or under the supervision of the city volunteer fire department.

(b) It shall hereafter be unlawful for any non-registered member of the fire department to operate or assist

⁹ MCC received an Ord. No. 07-03, repealing a prior prohibition of fireworks sale and possession which was in Ord. No. 2-57; however, we received no Ord. No. 2-57, which may have had provisions that are still in effect. **Please provide Ord. No. 2-57 for our review.**

¹⁰ **Reward, arson arrest and conviction:** Is this 1967 vintage provision still in effect? **YES**

in operating any equipment owned, operated by, or under the supervision of the city volunteer fire department.

(c) It shall hereafter be unlawful for any non-registered member of the fire department to ride on any fire truck owned, operated by or under the supervision of the city volunteer fire department.

(d) Exemptions may be made by the fire chief for vehicles in city parades and demonstrations, or for instances in which equipment is loaned to other recognized fire departments.

(Ord. No. 1-56, § 2, 1-3-1956)

~~Sec. 0-0. Penalty.~~

~~Any person convicted of violation any provision of this ordinance shall be fined not to exceed \$50.00.~~

~~(Ord. No. 1-56, § 3, 1-3-1956)~~

PROOFS

Title 11

FLOOD DAMAGE PREVENTION

State law reference—Local governments must adopt ordinances necessary for jurisdiction to qualify for National Flood Insurance Program, V.T.C.A., Water Code § 16.3145; political subdivisions to comply with federal requirements, V.T.C.A., Water Code § 16.315.

CHAPTER 11.04. FLOOD DAMAGE PREVENTION IN GENERAL**Sec. 11.04.010. Statutory authorization.**

The legislature of the state has, in the Flood Control Insurance Act, V.T.C.A., Water Code, § 16.315, delegated the responsibility of local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council of ~~Linden, Texas~~, does ordain as follows.

(Ord. No. 02-12, art. 1, § A, 2-13-2012)

Sec. 11.04.020. Findings of fact.

(a) The flood hazard areas of ~~Linden, Texas~~ the city are subject to periodic inundation, which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public health, safety and general welfare.

(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, floodproofed or otherwise protected from flood damage.

(Ord. No. 02-12, art. 1, § B, 2-13-2012)

Sec. 11.04.030. Purpose.

It is the purpose of this title to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (5) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- (6) Help maintain a stable tax base by providing for the sound use and development of floodprone areas in such a manner as to minimize future flood blight areas; and
- (7) Ensure that potential buyers are notified that property is in a flood area.

(Ord. No. 02-12, art. 1, § C, 2-13-2012)

Sec. 11.04.040. Methods of reducing flood losses.

In order to accomplish its purposes, this title uses the following methods:

- (1) Restrict or prohibit uses that are dangerous to health, safety or property in times of flood, or cause excessive increases in flood heights or velocities;
- (2) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against

flood damage at the time of initial construction;

- (3) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters;
- (4) Control filling, grading, dredging and other development, which may increase flood damage;
- (5) Prevent or regulate the construction of flood barriers which will unnaturally divert floodwaters or which may increase flood hazards to other lands.

(Ord. No. 02-12, art. 1, § D, 2-13-2012)

ARTICLE 2

Sec. 11.04.050. Definitions.

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted to give them the meaning they have in common usage and to give this ordinance its most reasonable application. The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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 one-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 one percent or greater annual chance of flooding to an average depth of one to three 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 means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the flood hazard boundary map (FHBM). After detailed 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 one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) means 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 one percent 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 manmade change to improved and unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Elevated building means, for insurance purposes, a non-basement building, which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

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 a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

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:

- (1) The overflow of inland or tidal waters.
- (2) 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 floodprone area means any land area susceptible to being inundated by water from any source (see ~~definition of~~ *Flood or 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 "floodplain management regulations" describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

Floodproofing 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.

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.

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 "functionally dependent use" 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:

- (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) 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;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory or historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of the Interior; or
 - b. Directly by the Secretary of the Interior in states without approved programs.

Levee means a manmade 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 ~~or~~ 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 design 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, the term "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:

- (1) Built on a single chassis;
- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and
- (4) 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. The term "substantial improvement" includes structures which have incurred substantial damage, regardless of the actual repair work performed. The term "substantial improvement" 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 floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas.

(Ord. No. 02-12, art. 2, 2-13-2012)

Sec. 11.04.060. Lands to which this title applies.

The title shall apply to all areas of special flood hazard with the jurisdiction of ~~Linden, Texas~~ the city.
(Ord. No. 02-12, art. 3, § A, 2-13-2012)

Sec. 11.04.070. Basis for establishing the areas of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in the flood insurance rate map (FIRM) or flood hazard boundary map (FHBM), Cass County, Texas and Incorporated Areas Community Number, CID # 481117, dated April 3, 2012, and any revisions thereto, are hereby adopted by reference and declared to be a part of this title.
(Ord. No. 02-12, art. 3, § B, 2-13-2012)

Sec. 11.04.080. Establishment of development permit.

A floodplain development permit shall be required to ensure conformance with the provisions of this title.
(Ord. No. 02-12, art. 3, § C, 2-13-2012)

Sec. 11.04.090. Compliance.

No structure or land shall hereafter be located, altered, or have its use changed without full compliance with the terms of this title and other applicable regulations.
(Ord. No. 02-12, art. 3, § D, 2-13-2012)

Sec. 11.04.100. Abrogation and greater restrictions.

This title is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this title and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.
(Ord. No. 02-12, art. 3, § E, 2-13-2012)

Sec. 11.04.110. Interpretation.

In the interpretation and application of this title, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the ~~governing body~~ city council; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

(Ord. No. 02-12, art. 3, § F, 2-13-2012)

Sec. 11.04.120. Warning and disclaimer or liability.

The degree of flood protection required by this title 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 manmade or natural causes. This title 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 title 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 title or any administrative decision lawfully made hereunder.
(Ord. No. 02-12, art. 3, § G, 2-13-2012)

CHAPTER 11.08. ADMINISTRATION

Sec. 11.08.010. Designation of the floodplain administrator.

The mayor or designee is hereby appointed as the floodplain administrator to administer and implement the provisions of this title and other appropriate sections of 44 CFR (Emergency Management and Assistance - National Flood Insurance Program Regulations) pertaining to floodplain management.
(Ord. No. 02-12, art. 4, § A, 2-13-2012)

Sec. 11.08.020. Duties and responsibilities of the floodplain administrator.

Duties and responsibilities of the floodplain administrator shall include, but not be limited to, the following:

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this title.
- (2) Review permit application to determine whether ~~to ensure that~~ the proposed building site project, including the placement of manufactured homes, will be reasonably safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of the ordinance codified in this title.
- (4) Review permits for proposed development to ensure 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 USC 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions), ~~the floodplain administrator shall~~ make the necessary interpretation.
- (6) Notify, in riverine situations, adjacent communities and the state coordinating agency which is the Texas Water Development Board (TWDB) and also the Texas Commission on Environmental Quality (TCEQ), prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with LMC 11.04.070, ~~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 LMC 11.12.

(Ord. No. 02-12, art. 4, § B, 2-13-2012)

Sec. 11.08.030. Permit procedures.

(a) Application for a floodplain development permit shall be presented to the floodplain administrator on forms furnished by him 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 floodproofed;
- (3) A certificate from a registered professional engineer or architect that the nonresidential floodproofed structure shall meet the floodproofing criteria of LMC 11.12.020(2);
- (4) Description of the extent to which any watercourse or natural drainage will be altered or relocated as a result of proposed development;
- (5) ~~Maintain~~ A record of all such information in accordance with LMC 11.08.020(1).

(b) Approval or denial of a floodplain development permit by the floodplain administrator shall be based on all of the provisions of this title 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 floodwaters 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.

(Ord. No. 02-12, art. 4, § C, 2-13-2012)

Sec. 11.08.040. 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 title.

(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 title.

(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 title.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the relevant factors in LMC 11.08.030(b) have been fully considered. As the lot size increases beyond ~~the one-half acre~~, the technical justification required for issuing the variance increases.

(g) Upon consideration of the factors noted above and the intent of this title, the appeal board may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this title (LMC 11.04.030).

(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.

(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:

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

- (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 subsections (a) through (i) of this section 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.

(Ord. No. 02-12, art. 4, § D, 2-13-2012)

CHAPTER 11.12. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 11.12.010. General standards.

In all areas of special flood hazards the following provisions are required for all new construction and substantial improvements:

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

(Ord. No. 02-12, art. 5, § A, 2-13-2012)

Sec. 11.12.020. Specific standards.

In all areas of special flood hazards where base flood elevation data has been provided as set forth in ~~(i)~~ LMC 11.04.070, ~~(ii)~~ LMC 11.08.020(8), or ~~(iii)~~ LMC 11.12.030(c), the following provisions are required:

- (1) *Residential construction.* New construction and substantial improvement of any residential structure shall have the lowest floor (including basement) elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection, as proposed in LMC 11.08.030(a)(1), is satisfied.
- (2) *Nonresidential construction.* New construction and substantial improvements of any commercial, industrial or other nonresidential structure shall either have the lowest floor (including basement) elevated to or above the base flood level or, together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is water-tight 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 floodproofed shall be maintained by the floodplain administrator.

- (3) *Enclosures.* New construction and substantial improvements with fully enclosed areas below the lowest floor that are 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:
 - a. A minimum of two openings on separate walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.
 - b. The bottom of all openings shall be no higher than one foot above grade.
 - c. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (4) *Manufactured homes.*
 - a. ~~Require that~~ All manufactured homes to be placed within Zone A on a community's FIRM shall be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state and local anchoring requirements for resisting wind forces.
 - b. ~~Require that~~ Manufactured homes that are placed or substantially improved within Zones A1--30, AH, and AE on the community's FIRM on sites:
 1. Outside of a manufactured home park or subdivision;
 2. In a new manufactured home park or subdivision;
 3. In an expansion to an existing manufactured home park or subdivision; or
 4. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as a result of a flood;

shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated to or above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.
 - c. ~~Require that~~ Manufactured homes ~~be that are~~ 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 this subsection (4) shall be elevated so that either:
 1. The lowest floor of the manufactured home is at or above the base flood elevation; or
 2. 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 is~~ securely anchored to an adequately anchored foundation system to resist flotation, collapse, and lateral movement.

(Ord. No. 02-12, art. 5, § B, 2-13-2012)

Sec. 11.12.030. Standards for subdivision proposals.

- (a) All subdivision proposals including the placement of manufactured home parks and subdivisions shall be consistent with LMC 11.04.020, LMC 11.04.030 and LMC 11.04.040.

(b) All proposals for the development of subdivisions including the placement of manufactured home parks and subdivisions shall meet floodplain development permit requirements of LMC 11.04.080, LMC 11.08.030, and the provisions of this chapter.

(c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including the placement of manufactured home parks and subdivisions which is greater than 50 lots or five acres, whichever is lesser, if not otherwise provided pursuant to LMC 11.04.070 or LMC 11.08.020(8).

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

(e) 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.

(Ord. No. 02-12, art. 5, § C, 2-13-2012)

Sec. D. Severability.

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

~~(Ord. No. 02-12, art. 5, § D, 2-13-2012)~~

Sec. 11.12.040. Penalties for noncompliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this ~~court order title~~ and other applicable regulations. Violation of the provisions of this ~~court order title~~ by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this ~~court order title~~ or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500.00 for each violation, and in addition shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. 02-12, art. 5, § E, 2-13-2012)

Title 12

LAW ENFORCEMENT

State law reference—Police force of Type A municipality, V.T.C.A., Local Government Code § 341.001; municipal authority to establish police reserve force, V.T.C.A., Local Government Code § 341.012(a).

Sec. 12.00.010. Prohibition of excessive force.

It is the policy of the city to prohibit the use of excessive force by the law enforcement agencies within its jurisdiction against any individual engaged in nonviolent civil rights demonstrations. The county also prohibits the physical barring of any entrance to, or exit from, such a facility within its jurisdiction.

(Res. No. 04-14, § 1, 3-10-2014)

PROOFS

Title 13

MANUFACTURED HOMES AND TRAILERS

State law reference—Regulation of certain types of housing and buildings, reservation of municipal authority, V.T.C.A., Occupations Code § 1202.251; regulation by municipality of mobile and manufactured housing, V.T.C.A., Occupations Code § 1201.008; minimum sanitation standards for mobile home developments, 25 Tex. Admin. Code § 265.82 et seq.; manufactured housing community of less than four spaces, municipal regulation prohibited, V.T.C.A., Local Government Code § 214.906.

Sec. 13.00.010. Definitions.

~~For the purposes of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning. The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

Decal means a device or insignia issued by the state department of labor and standards that is permanently affixed to each transportable section of each modular home to indicate compliance with the standards, rules, and regulations established by the department.

Dependent mobile home unit means a manufactured home or recreational vehicle not equipped with bathing or toilet facilities.

HUD-code manufactured home means a structure, constructed on or after June 15, 1976, according to the rules of the U.S. Department of Housing and Urban Development, transportable in one or 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 dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

Installation means the construction of the foundation system, whether temporary or permanent, and the placement of a manufactured home on the foundation system, including supporting, blocking, leveling, securing, anchoring, and connection of multiple or expandable units and minor adjustments.

Label means a device or insignia issued by the state department of labor and standards to indicate compliance with the standards, rules, and regulations established by the Department of Housing and Urban Development, permanently affixed to each transportable section of each mobile home manufactured after June 15, 1976, for sale to a customer.

Lot or space means a plot of ground designed for the placement of one manufactured home.

Manufactured home or housing means a HUD-code manufactured home to be used for residential purposes.

Mobile home means a structure that was constructed before June 15, 1976, transportable in one or 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 dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems.

Mobile home park means:

- (1) Any site, lot, field or tract of ground upon which mobile homes are placed, and shall include any building, structure, tent, vehicle or enclosure used or intended for use as a part of the equipment of such park for the purpose of renting or leasing spaces meeting the requirements of this title for mobile home parks.
- (2) A unit of level, adequately-drained ground of definite size, clearly indicated by corner markers for the placing of a mobile home.

Modular home means a structure that is manufactured in two or more modules at a location other than the placement site and which is designed to be used for human occupancy when the modules are transported to the

placement site, and the modules are joined together and installed on a permanent foundation system. The term "modular home" includes the plumbing, heating, air conditioning and electrical systems contained in the structure. It is expressly provided, however, that the term "modular home" shall not mean or apply to, and that the following items are expressly excluded from, the purview of this title.

Recreational vehicle means any motor home, mobile trailer, camper, recreational unit or any similar vehicle principally designated for temporary habitation, regardless of size.

Seal means a device or insignia issued by the state department of labor and standards to be affixed to used mobile homes to indicate compliance with the standards, rules, and regulations established by the department.

(Ord. No. 05-10, § 1, 5-10-2010)

Sec. 13.00.020. Mobile home outside a licensed park.

It shall hereafter be unlawful to locate a mobile home as herein defined in the city outside a duly licensed mobile home park.

(Ord. No. 05-10, § 2, 5-10-2010)

Sec. 13.00.030. Placement of manufactured housing outside of mobile home park or subdivision.

(a) Manufactured homes shall not be permitted to be located within the limits of the city on any space, lot or tract of land other than in aplatted and approved mobile home park or mobile home subdivision, nor shall any private or public utilities be connected or extended, except in any one or more of the following circumstances:

- (1) ¹¹The manufactured home was legally in existence at such location as of the _____ day of _____, 2010.

If a manufactured home existing in the corporate limits of the city subsequent to the continuance provisions, and used for any purpose, is removed or replaced for any reason, a variance as prescribed in this title must be obtained before another HUDS manufactured home can be placed on the site.

- (2) Written application for exception shall be submitted to the city ~~manager~~ Secretary and shall require the granting of a variance as prescribed in this title. The application shall state:
 - a. Name and address of the applicant.
 - b. Size, model, year of manufacture, original cost, and photograph of the manufactured home.
 - c. Legal description of the property upon which it is proposed to place the mobile home and name and address of the property owner. The manufactured home is to be located on a separately platted or replatted lot of at least 4,000 square feet; such plat or replat having been properly approved by the city. The person who intends to occupy such manufactured home must submit a copy of a duly recorded deed in a form acceptable to the city showing that the intended occupant owns the lot upon which the manufactured home is to be located. No other structure designed or to be used for human occupancy shall be located on such lot, and shall meet all applicable codes and ordinances for the intended use.
 - d. Drawing showing size of lot, location of lot, and how the manufactured home is to be placed on the lot in order to conform to the city code and ordinances.
 - e. Form signed by the applicant stating that he understands the requirements of the zoning ordinances for the area the manufactured home will be placed in.
 - f. Form signed by the applicant stating that the manufactured home will have tie-downs and will be skirted with fire-resistant skirting and will be maintained intact to prevent accumulations of flammable materials beneath the manufactured home.
 - g. The property owner must submit adequate proof ~~of~~ to the building inspection department that the aforementioned and other title requirements have been met before a permit is issued for the

¹¹ City—Please provide information needed to fill in the blanks.

placement of the manufactured home.

(b) Nothing provided in this section pertaining to manufactured housing shall in any way abrogate the enforceability by private parties of deed restrictions pertaining to manufactured housing.

(Ord. No. 05-10, § 3, 5-10-2010)

Sec. 13.00.040. Abandonment.

(a) Any existing mobile home or manufactured home, as defined in LMC 13.00.010, which continues to be used for any purpose subsequent to the continuance provisions of this title, and which is abandoned and not maintained for a continuous period of 180 calendar days, shall lose its continuance status, and shall be subject to the variance provisions herein prescribed. Abandonment and lack of maintenance may be evidenced by, but are not limited to, termination of utility service, failure to maintain occupancy, change of type of use, or by any other reasonable means.

(b) Any manufactured home which is located pursuant to the variance provisions of this title, and which subsequently is abandoned according to the definition contained in ~~section 1~~ subsection (a) of this section, shall be deemed to have permanently lost its location privilege and status, and the site on which the structure had been located shall henceforth be used only for purposes other than the location of a manufactured home.

(Ord. No. 05-10, § 4, 5-10-2010)

Sec. 13.00.050. Removal.

Any mobile home, manufactured home, or recreational vehicle which is located within the corporate limits of the city so as to be in violation of any term or condition of this title is subject to removal from the city at the expense of the owner. If, upon a city-directed order for removal, the owner fails to comply, the city may enter upon the property in question and take steps to have the subject vehicle or structure removed at the expense of the owner.

(Ord. No. 05-10, § 5, 5-10-2010)

Sec. 13.00.060. Enforcement procedures.

(a) In addition to other penalties set out in this title, the city shall withhold all public utilities and improvements of whatever nature, including the maintenance of streets and the furnishing of sewer and water service from all mobile homes, manufactured housing, mobile home parks, manufactured housing sales areas, and mobile home subdivisions which are not in compliance with all applicable provisions of this title.

(b) In addition to the enforcement procedures provided in this title, the city attorney shall take such other legal action, or injunctive relief, as may be necessary to enforce the provisions of this title.

(Ord. No. 05-10, § 6, 5-10-2010)

Sec. 13.00.070. Variances.

(a) A variance to the provisions of this title shall only be granted pursuant to a public hearing before the city council.

(b) All property owners within 500 feet of any portion of the property on which the variance is sought shall be notified by regular mail of such hearing.

(c) The public hearing and property owner notification calendar utilized by the city shall be based on the statutory provisions of the municipal zoning laws of the state.

(d) All advertising and notification costs shall be borne by the applicant for the variance.

(Ord. No. 05-10, § 7, 5-10-2010)

Sec. 13.00.080. License fees.

The permit for a mobile home park shall be obtained from the city ~~manager~~ secretary at a fee as established from time to time of \$_____ for each occupied trailer space, payable by the owner of such mobile home park ~~on the first day of January 1~~ of each year. Payment is to be based on the number of spaces reported by the trailer park owner.

(Ord. No. 05-10, § 8, 5-10-2010)

Sec. 13.00.090. Application for license.

(a) Application for a mobile home park license shall be filed with the city ~~manager-secretary~~. After the required zoning and plan approval has been approved by the planning and zoning commission and the city council, including approval by the city manager, the city ~~manager secretary~~ shall issue the license. Applications shall be in writing, and signed by the applicant, and shall contain the following:

- (1) The name and address of the applicant;
- (2) The location and legal description of the mobile home park;
- (3) A complete plan of the park, showing compliance with LMC 13.00.100;
- (4) Plans and specifications of all buildings and other improvements constructed, or to be constructed, within the mobile home park in accordance with all existing applicable ordinances or statutes within the city;
- (5) Such further information as may be requested by the city to determine if the mobile home park will comply with the legal requirements.

(b) If the applicant is found to be of good moral character and the mobile home park will be in compliance with all provisions of this title and all other applicable ordinances or statutes, the city manager may approve the application, and, in the case of proposed parks, make such approval contingent upon completion of the park according to the plans and specifications submitted with the application. The city ~~manager secretary~~ shall issue the license.

(Ord. No. 05-10, § 9, 5-10-2010)

Sec. 13.00.100. Mobile home park plan.

The mobile home park shall conform to the following requirements:

- (1) The park shall be located on a well-drained site, properly graded to ensure rapid drainage and freedom from stagnant pools of water.
- (2) Mobile home spaces shall be provided, consisting of a minimum of 1,000 square feet for each space, which shall be at least 25 feet wide and clearly defined. Mobile homes and manufactured ~~houses-homes~~ shall be so harbored on each space that there shall be at least 20 feet clearance between mobile homes and manufactured homes; provided, however, that in respect to mobile homes and manufactured homes parked end to end, clearance between mobile homes and manufactured homes may be less than 20 feet but shall not be less than 15 feet from any building within the park or from any property line bounding the park.
- (3) The park plan required by LMC 13.00.090 shall provide a legal description and map clearly setting out the following information, and, where applicable, comply with the city subdivision ordinance:
 - a. The extent and area to be used for park purposes;
 - b. Driveways at entrances and exits, roadways and walkways;
 - c. Location of sites for mobile homes and manufactured homes;
 - d. Location and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries, laundry drying space and utility rooms;
 - e. Method and plan of sewage disposal;
 - f. Method and plan of garbage removal;
 - g. Plan of water supply;
 - h. Plan of electric lighting, and electric service to mobile home and manufactured home sites;
 - i. Plan of parking requirements;
 - j. ~~A mobile home or manufactured home shall have effective visual screening of the undercarriage utilizing like materials. The screening shall completely surround the mobile home or manufactured home and extend from the bottom of the sidewall to the ground.~~

- j. Such further information as may be requested by the city manager.
- (4) A mobile home or manufactured home shall have effective visual screening of the undercarriage utilizing like materials. The screening shall completely surround the mobile home or manufactured home and extend from the bottom of the sidewall to the ground.

(Ord. No. 05-10, § 10, 5-10-2010)

Sec. 13.00.110. Water supply and sanitary sewer.

Every mobile home park shall have city water connections furnishing an ample and adequate supply of water and shall be connected with the sanitary sewer and adequate provisions shall be made for the collection and removal of waste and garbage in accordance with all applicable ordinances of the city and other statutes.

(Ord. No. 05-10, § 11, 5-10-2010)

Sec. 13.00.120. Register of occupants.

It shall be the duty of the licensee to keep a register containing a record of all mobile home and manufactured home owners and occupants located with the park. The register shall contain the following information:

- (1) Name and address of each occupant;
- (2) The make, model and year of all automobiles, manufactured homes and mobile homes;
- (3) License number of owner of each mobile home, manufactured home, and automobile by which it is towed;
- (4) The state issuing such license; and
- (5) The date of arrival and of departure of each mobile home and manufactured home.

(Ord. No. 05-10, § 12, 5-10-2010)

Sec. 13.00.130. Tie-downs.

(a) All mobile homes and manufactured housing shall have adequate tie-downs as required by state insurance regulations.

(b) The park shall keep the register available for inspection at all times, by law enforcement officers, public health officials and other officials whose duties necessitate acquisition of the information contained in the register. The register records shall not be destroyed for a period of two years following the date of registration.

(Ord. No. 05-10, § 13, 5-10-2010)

Sec. 13.00.140. Revocation of license.

The city may revoke any license to maintain and operate a mobile home park after the licensee is given due notice and hearing for any violation of this title. After such conviction, the license may be reissued ~~of~~ if the circumstances leading to conviction have been remedied and the park is being maintained and operated in full compliance with the law and the provisions of this title.

(Ord. No. 05-10, § 14, 5-10-2010)

Sec. 13.00.150. Moving permit.

No mobile home or manufactured housing over 30 feet in length shall be moved upon the public streets of the city without first obtaining a moving permit from the office of the city ~~manager-secretary~~; provided, however, that no fee for such permits shall be charged. Provided, further, that no such permit shall be issued unless and until all ad valorem taxes on such mobile home or manufactured home shall be paid in full, including prorated ad valorem taxes for a partial year and including all penalty, interest and attorney's fees.

(Ord. No. 05-10, § 15, 5-10-2010)

Sec. 13.00.160. Prohibited parking.

It shall be unlawful for any person to park any manufactured home, mobile home or recreational vehicle on any public street, alley, highway or other public place within the limits of the city for any of the following purposes:

- (1) Human occupancy at any time;
- (2) Storage for more than 24 hours;
- (3) Any purpose within a fire district as established by the building inspection department under the city building code;
- (4) Any other purpose for more than 48 hours.

(Ord. No. 05-10, § 16, 5-10-2010)

Sec. 13.00.170. Penalty.

Any person, firm or corporation violating any provision of this title shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$10.00 nor more than \$500.00, plus court costs. Each day that such violation continues unabated shall constitute a separate offense.

(Ord. No. 05-10, § 17, 5-10-2010)

PROOFS

Title 14

OFFENSES AND MISCELLANEOUS PROVISIONS

State law reference—Municipality may not enact or enforce law making conduct covered under state penal code as an offense subject to criminal penalty, V.T.C.A., Penal Code § 1.08; Type A municipality may prevent and punish certain types of disorderly conduct, V.T.C.A., Local Government Code § 217.003; Type A municipality may regulate certain conduct which disturbs persons using streets and sidewalks, V.T.C.A., Local Government Code § 217.003(c); municipality may regulate discharge of firearms, V.T.C.A., Local Government Code § 229.001(b)(2).

CHAPTER 14.04. OFFENSES AND MISCELLANEOUS PROVISIONS IN GENERAL (RESERVED)**~~Sec. 1-1. Obstructive loitering prohibited.~~**

~~— That it shall be unlawful for any person or persons to loiter, loaf or remain on any private property or at any business establishment in the City of Linden, Texas after being requested to leave such property or business establishment by the owner, operator, person in charge, or employee of such private property or business establishment or by any peace officer.~~

~~— That it shall be unlawful for any person or persons to block the driveway or do any act in any manner calculated to block the entrance or prevent the normal free access to any private property or business establishment in the City of Linden, Texas.~~

~~— That it shall be unlawful for any person or persons to loiter, loaf or remain at or near any business establishment for any purpose calculated to discourage the general public or particular persons from conducting lawful business at such establishment in the City of Linden, Texas.~~

~~— That it shall be unlawful for any person or persons to willfully in any manner, not authorized by law, do any act calculated to interfere with the operation of a private business establishment or the normal conduct of such business, in the City of Linden, Texas.~~

~~— That it shall not constitute a defense to any act declared unlawful by this Ordinance that any such private property or business establishment is open to the general public and that the person or persons in violation were at such place for the purpose of conducting lawful business if such person or persons remain after being requested to leave; providing however, that this Ordinance shall not apply to any situation controlled by any State or Federal laws relating to labor disputes, picketing, civil rights or other State or Federal law.~~

~~— Any person who shall violate any of the provisions of this Ordinance, or shall fail to comply therewith or with any of the requirements thereof, shall be deemed guilty of a misdemeanor and shall be liable to a fine, and upon conviction of any such violation shall be fined in any sum of not more than \$200.00; and each day any such violation shall be permitted to exist shall constitute a separate and distinct offense.~~

~~(Ord. No. 4-67, 9-5-1967)~~

ARTICLE II. TRESPASSING**~~Sec. I. Unlawful trespass and destruction of property.~~**

~~It shall be unlawful for any person to go upon the premises of another person, situated within the City of Linden without the consent of the occupant or person in charge of said premises, and break, cut or pull or take from the premises, or trample upon the flowers, shrubbery, grass or garden vegetables, growing on said premises.~~

~~(Ord. No. 4-60, § I, 5-2-1960)~~

~~Sec. II. Unlawful continuing trespass by peddler.~~

~~It shall be unlawful for any peddler, salesman, solicitor or any other person who goes on the premises of another person, to remain on said premises after he has been ordered by any lawful occupant to leave said premises.~~

~~(Ord. No. 4-60, § II, 5-2-1960)~~

Sec. III. Unlawful trespass.

~~It shall be unlawful for any person to go upon the premises of another person, without the consent of the occupant and after such person has been forbidden or warned by the occupant or person in charge of said premises not to go upon said premises. Provided the provisions of this section shall not apply to licensees, tenants in common of said premises, landlords, meter readers and other persons who go on said premises in pursuit of lawful business, not including the persons named in Section 2; and shall not apply to peace officers or other public officers who go on said premises in discharge of their duties.~~

~~(Ord. No. 4-60, § III, 5-2-1960)~~

Sec. IV. Unlawful permitting minor to trespass.

~~It shall be unlawful for any parent or guardian of any minor child to knowingly permit such child to go upon the premises of another person, after such parent or guardian has been requested by the person in charge of said premises, not to permit said child to go thereon.~~

~~(Ord. No. 4-60, § IV, 5-2-1960)~~

Sec. V. Peeping prohibited.

~~It shall be unlawful for any person to go to or near the private residence of any other person, without the consent of the head of the family or the person in charge of such private residence, and peep through any door, window or other opening in said residence for the purpose of spying into said residence for said purpose of eavesdropping, or listening to the conversations of the occupants of said private residence. Provided this section shall not apply to peace officers or other public officers in the discharge of their duties.~~

~~(Ord. No. 4-60, § V, 5-2-1960)~~

Sec. VII. Penalty.

~~Any person, violating any of the provisions of this ordinance, shall be deemed guilty of a misdemeanor and upon conviction be punished by a fine not exceeding \$100.00.~~

~~(Ord. No. 4-60, § VII, 5-2-1960)~~

CHAPTER 14.08. HANDBILL DISTRIBUTION**Sec. 14.08.010. Distribution of handbills on private properties.**

It shall be unlawful for any person, firm or corporation to distribute or cause to be distributed, in the city, any handbill or any printed or written advertising matter by placing or causing to be placed in any yard, or any other portion of any private residence situated within the city, or in any part of any house whatsoever not in the possession or control of the person, firm or corporation so distributing the same.

(Ord. No. 01-93, § 1, 3-15-1993)

Sec. 14.08.020. Exception to prohibition.

The provisions of this chapter shall not be deemed to apply to any handbill, or any printed or written advertising matter which is contained in a publication that is duly subscribed to by the owner of the private residence wherein the publication is distributed or to any handbill, or any printed or written advertising matter that is expressly requested to be furnished by the owner of the private residence wherein such matter is distributed.

(Ord. No. 01-93, § 2, 3-15-1993)

Sec. 0-0. Penalty.

~~Any person, firm or corporation, violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine not exceeding \$200.00 for each such violation.~~

~~(Ord. No. 01-93, § 3, 3-15-1993)~~

CHAPTER 14.12. OFFENSES ON MUNICIPAL PROPERTIES

Sec. 14.12.010. Controlled substances prohibited.

(a) It shall be unlawful for any person to possess, carry, consume, or use any controlled substances within any city properties, facilities, easements, and/or rights-of-way.

(b) For purposes of this section, the term "controlled substance" is used as defined in the Texas Controlled Substances Act.

(Ord. No. 11-05, § 1, 10-11-2005)

Sec. 14.12.020. Alcohol prohibited.

(a) It shall be unlawful for any person to possess, carry, consume, or use any alcoholic beverage within any city properties, facilities, easements, and/or rights-of-way. Exemptions may be granted by the city for city-sponsored or city-permitted events at designated venues, for a specific time period.

(b) For purposes of this section, the term "alcoholic beverage" is used as defined in the Texas Alcoholic Beverage Code.

(Ord. No. 11-05, § 2, 10-11-2005)

~~Sec. 3. Firearms prohibited.~~

~~It shall be unlawful for any person to possess, carry, or discharge any firearm, air rifle spring gun, bow and arrow, sling, or any other forms of weapons potentially inimical and dangerous to human life within any city properties, facilities, easements, and/or right of ways.~~

~~It shall be a defense to prosecution under the preceding subpart that:~~

~~The person was a peace officer of the city in the performance of his/her official duties;~~

~~The person was certified or licensed security guard engaged for the purposes of providing security for an event/function occurring within any city property, facility easement, and/or right of way. The use of a certified or licenses security guard in a city property, facility, easement, and/or right of way, employed by a group/organization other than the city must be authorized in writing by the city secretary and/or his/her designee not less than 72 hours prior to the occurrence of the event/function;~~

~~(Ord. No. 11-05, § 3, 10-11-2005)~~

CHAPTER 14.16. YARD SALES

Sec. 14.16.010. Rules and regulations.

(a) Prior to any garage sale/yard sale, a permit must be obtained from the city.

(b) Permits must be placed in plain view at the location of the garage sale/yard sale.

(c) Signs must have the following information printed on each sign:

(1) Permit number.

(2) Address/location of garage sale/yard sale.

(3) Date of sale.

(d) Signs may not be located on city property.

(e) Signs may not be located on medians in downtown Linden, ~~Texas~~.

(f) Signs may not be placed on utility poles inside the city limits of ~~Linden, Texas~~.

(g) Signs may not be located in city streets or state highway rights-of-way in accordance with state department of transportation regulations.

(h) Signs must be removed and properly disposed of within 24 hours after date of sale.

(i) Signs that are not located as stated in subsections (d) through (g) of this section will be removed immediately.

(Ord. No. 08-06, § 1, 12-12-2006)

Sec. 2. Penalties.

~~Fines for failure to meet any of the above requirements will be levied as follows:~~

~~— Failure to obtain permit \$25.00~~

~~— Failure to remove signs within 24 hours of the final date of sale \$50.00~~

(Ord. No. 08-06, § 2, 12-12-2006)

ARTICLE III. SYNTHETIC CANNABINOIDS

Sec. 1. Purpose.

~~The purpose of this article is to prohibit the use, possession, sale, ingestion or smoking of illegal smoking products and ingestion devices hereinafter defined within the city limits of the City of Linden.~~

(Ord. No. 07-14, § 1, 5-12-2014)

Sec. 2. Definitions.

~~"Person" shall mean an individual, corporation, partnership, wholesaler, retailer or any licensed or unlicensed business.~~

~~"Illegal Smoking Product" shall mean any substance, whether described as tobacco, herbs, incense, spice or any blend thereof, regardless of whether the substance is marketed for the purpose of being smoked, which includes anyone or more of the following chemicals:~~

~~(a) Salviadinorum or salvinorum A; all parts of the plant presently classified botanically as salvia divinorum, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts derivative, mixture or preparation of such plant, its seeds or extracts;~~

~~(b) ——— 2 [(1R, 3S) 3-hydroxycyclohexyl] 5-[2-methyloctan-2-yl]-phenol (also known as CP47, 497) and homologues;~~

~~(c) (6aS, 10aS) 9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c] chormen-1-ol) (also known as HU-211 or Dexamabinol);~~

~~(d) ——— 1-Pentyl-3-(1-naphthoyl)-indole (also known as JWH-018); or~~

~~(e) Butyl-3-(1-naphthoyl)-indole (also known as JWH-073).~~

~~"Ingestion Device" shall mean equipment, a product or material that is used or intended for use in ingesting, inhaling, or otherwise introducing an illegal smoking product into the human body, including:~~

~~(a) a metal, wooden, acrylic, glass, stone, plastic, or ceramic pipe with or without a screen, permanent screen, hashish head, or punctured metal bowl;~~

~~(b) ——— a water pipe;~~

~~(c) a carburation tube or device;~~

~~(d) ——— a smoking or carburation mask;~~

~~(e) a chamber pipe;~~

~~(f) a carburetor pipe;~~

~~(g) ——— an electric pipe;~~

~~(h) ——— an air-driven pipe~~

~~(i) a chillum;~~

~~(j) a bong; or~~

~~(k) — an ice pipe or chiller.~~

~~(Ord. No. 07-14, § 2, 5-12-2014)~~

~~Sec. 3. Sell, offer, gift, display or possession.~~

~~It shall be unlawful for any person to use, possess, purchase, barter, give, publicly display, sell or offer for sale any illegal smoking product.~~

~~(Ord. No. 07-14, § 3, 5-12-2014)~~

~~Sec. 4. Use or possession of ingestion devices.~~

~~It shall be unlawful for any person to use or possess with intent to use an ingestion device to inject, ingest, inhale or otherwise introduce into the human body an illegal smoking product.~~

~~(Ord. No. 07-14, § 4, 5-12-2014)~~

~~Sec. 5. Defense.~~

~~It shall be a defense to a violation of this article that any act described in this article is under and pursuant to the direction or prescription of a licensed physician or dentist authorized to direct or prescribe such act.~~

~~Should any word, sentence, paragraph, subdivision, clause, phrase or section of this ordinance or of the Code of Ordinances be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said ordinance or the Code of Ordinances which shall remain in full force and effect.~~

~~Any person, firm or corporation violating any of the provisions or terms of this ordinance, upon conviction shall constitute a fine not exceed \$2,000 for each offense. Each succeeding day of violation shall constitute a separate offense.~~

~~(Ord. No. 07-14, § 5, 5-12-2014)~~

CHAPTER 14.20. CURFEW

State law reference—Juvenile curfew in general-law municipality, V.T.C.A., Local Government Code § 341.905; review of curfew every three years, V.T.C.A., Local Government Code § 370.002; children taken into custody for violation of curfew, Vernon's Ann. C.C.P. art. 45.059.

Sec. 14.20.010. Purposes and findings.

(a) *Purposes.* The purposes of this chapter are to:

- (1) Protect minors from criminal activity that occurs after the curfew hour;
- (2) Protect minors from improper influences that prevail after the curfew hour;
- (3) Protect the public from illegal acts of minors committed after the curfew hour; and
- (4) Help parents, guardians, custodians, or other responsible persons, in carrying out their responsibility to exercise reasonable supervision of the children entrusted to their care.

(b) *Findings.* Based on statistical information maintained by the city police department, the number of juveniles involved in crime and juveniles who are victims of crime represent a substantial threat to the health, safety, and peace of the community, which constitutes a compelling governmental interest for initiating ~~this~~ the ordinance codified in this chapter.

(Ord. No. 11-17, § 1, 12-11-2017)

Sec. 14.20.020. Definitions.

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

Curfew hours means:

- (1) 10:00 p.m., on any Sunday, Monday, Tuesday, Wednesday, or Thursday until 6:00 a.m. the following day;
- (2) 12:00 midnight until 6:00 a.m. on any Friday or Saturday: and
- (3) 9:00 a.m. until 2:30 p.m. on any Monday, Tuesday, Wednesday, Thursday or Friday.

Emergency means an unforeseen combination of circumstances or the resulting state that calls for immediate action. The term "emergency" includes, but is not limited to, a fire, a natural disaster, an 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.

Minor means any person under 17 years of age.

Operator means any individual, firm, association, partnership, or corporation operating, managing or conducting any establishment, including the members or partners of an association or partnership and the officers of a corporation.

Parent means a person who is the natural parent, adoptive parent, or the step-parent of a person. As used herein, the term "parent" shall also include a court-appointed guardian or other person 21 years of age or older and authorized by the parent, by a court order, or by the court-appointed guardian to have the care and custody of a person.

Premises means the structure within which the establishment is housed.

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.

(Ord. No. 11-17, § 2, 12-11-2017)

Sec. 14.20.030. Offenses.

(a) It shall be unlawful for any minor to intentionally or knowingly remain, walk, run, stand, drive, or ride about in or upon any public place in the city, during curfew hours.

(b) It shall be unlawful for the parent of a minor to knowingly permit or by inefficient control to allow such minor to remain, walk, run, stand, drive, or ride about in or upon any public place in the city, during curfew hours. The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.

(c) It shall be unlawful for a person to induce, encourage or assist a minor to remain, walk, run, stand, drive, or ride about in or upon any public place in the city, during curfew hours.

(d) It shall be unlawful for the owner, operator, or any employee of an establishment to knowingly allow a minor to enter or to remain upon the premises of the establishment during curfew hours.

(Ord. No. 11-17, § 3, 12-11-2017)

Sec. 14.20.040. Exceptions and defenses.

(a) It is a defense to prosecution under LMC 14.20.030 that, at the time of the act otherwise would constitute an offense:

- (1) The minor was accompanied by his parent;
- (2) The minor was accompanied by an adult 21 years of age or older designated by his parent;
- (3) The minor was on an errand made necessary by an emergency;
- (4) The minor was attending a school, religious activity, or government-sponsored activity, or going to or coming from a school, religious, or government-sponsored activity;
- (5) The minor was engaged in a lawful employment activity or volunteer work at a recognized charity institution, or going to or coming from such activity without detour or stop;

- (6) The minor was 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;
- (7) The minor was, with parental consent, in a motor vehicle engaged in interstate travel, beginning, ending, or passing through ~~Linden, Texas~~ the city;
- (8) The minor was on an errand at the direction of the minor's parent, without any detour or stop;
- (9) The minor was on the property or the sidewalk directly adjacent to the place where such minor resides or the place immediately adjacent thereto if the owner or occupant of the adjacent building does not communicate an objection to the minor and the police department;
- (10) The minor was attending or traveling directly to or from an activity involving the exercise of the First and Fourteenth Amendment rights protected by the United States Constitution, including, but not limited to, the free exercise of religion, freedom of speech, and the right of assembly;
- (11) The minor was married or had been married or had disabilities of minority removed in accordance with V.T.C.A., Family Code ch. 31;
- (12) The minor was following the direction of a peace officer;
- (13) With respect to the hours between 9:00 a.m. and 2:30 p.m. only, that the offense occurred during the school summer vacation break period of the school in which the minor is enrolled or on a holiday observed by the closure of classes in the school in which the minor is enrolled or that the minor has graduated from high school or received a high school equivalency certificate; or
- (14) In a prosecution under LMC 14.20.030, the owner, operator, or employee of the place of business promptly notified the police department that a minor was present on the premises of the business during the curfew hours and refused to leave.

(b) Each of the forgoing exceptions and their several limitations are severable as hereinafter provided ~~by~~ reemphasized here.

(Ord. No. 11-17, § 4, 12-11-2017)

Sec. 14.20.050. Supplemental effect.

The provisions of this chapter are supplemental and shall be cumulative with all other laws and ordinances applicable in any manner to juveniles.

(Ord. No. 11-17, § 5, 12-11-2017)

Sec. 14.20.060. Enforcement.

Before taking any enforcement action under this chapter, 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 chapter unless the officer reasonably believes that an offense has occurred and that, based on the response and other circumstances, no defense in LMC 14.20.040 is present.

(Ord. No. 11-17, § 6, 12-11-2017)

Sec. 14.20.070. Penalties.

(a) A minor who violates LMC 14.20.030 shall be guilty of a misdemeanor and, upon conviction, shall be ~~punishable-punished~~ by a fine in accordance with ~~the penalty provision found in this ordinance~~ this section, and appropriate action by a juvenile court in accordance with V.T.C.A., Family Code § 51.08 and V.T.C.A., Penal Code § 8.07.

(b) A parent of a minor who violates LMC 14.20.030 shall be guilty of a misdemeanor and, upon conviction, shall be ~~punishable-punished~~ by a fine in accordance with LMC 1.00.090.

(c) A person who violates a provision of this chapter is guilty of a separate offense for each day or part of a

day during which the violation is committed, continued, or permitted.

~~Any person violating the terms of this ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$1.00 nor more than \$200.00 and, upon conviction, shall be fined in any sum of not less than \$1.00 nor more than \$200.00.~~

(Ord. No. 11-17, § 7, 12-11-2017)

PROOFS

Title 15

PARKS AND RECREATION

State law reference—Authority of municipalities to operate and maintain parks, V.T.C.A., Local Government Code § 331.001; parks to be open for public use under rules prescribed by local governing authority, V.T.C.A., Local Government Code § 331.007.

CHAPTER 15.04. PARKS AND RECREATION IN GENERAL

Sec. 15.04.010. Hours of operation; overnight camping.

(a) All city parks shall be closed every day from 12:00 midnight until 5:00 a.m.; and it shall be unlawful for anyone:

- (1) To use, occupy or camp overnight in a city park;
- (2) To walk, jog, run, or drive through a city park;
- (3) To be present in a city park; or
- (4) To use any improvements in a city park;

during such period when they are closed.

(b) However, if anyone applies for permission to carry out an activity in a park during such hours, and the city manager or his designee determines, in his sole discretion, that such activity will not create a disturbance or public nuisance, the city manager or his designee shall have authority to issue a special permit for such activity.

(Ord. No. 08-11, § 1, 10-11-2011)

Sec. 15.04.020. Designation of city parks.

(a) The term "city park" means all parks in the city limits ~~of the City of Linden, Texas.~~ This includes, but is not limited to, Crow-Heath Park and Linden City Park.

(b) This list of city parks may be amended, from time to time, and these regulations shall be applicable to any city park added to this list effective on the date such new park is added to the list.

(Ord. No. 08-11, § 2, 10-11-2011)

Sec. 15.04.030. Consumption of alcoholic beverages or toxic and narcotic drugs in city parks prohibited.

The possession or consumption of alcoholic beverages, toxic drugs, narcotic drugs or any substance which is classified as a "controlled substance" under state or federal law is prohibited in all city parks and in all public street rights-of-way abutting such parks except as follows: A person may possess or use prescription drugs which have been prescribed for that individual by a physician licensed to prescribe the particular ~~drug or~~ drugs being used, so long as such ~~drug or~~ drugs are only being used by the person for whom they have been prescribed and are being used in strict compliance with the instructions of the physician prescribing them.

(Ord. No. 08-11, § 3, 10-11-2011)

Sec. 15.04.040. Sponsorship and naming rights.

No person, firm or organization may sponsor a city park or purchase or install equipment or improvements in a city park without approval of the city. Likewise, no city park or any equipment or improvements in a city park will be named after any person, firm or organization without approval of the city. Any person, firm or organization seeking approval under this section shall make application to the city manager who will then make a recommendation to the ~~board of commissioners of the city~~ council for final action.

(Ord. No. 08-11, § 4, 10-11-2011)

Sec. 15.04.050. Certain acts prohibited.

It shall be unlawful for any person, firm, or corporation using a city park to do any of the following acts or to permit any child or person under disability that is under their care, custody or control to do any of the following acts:

- (1) Willfully mark, deface, disfigure, injure, tamper with, or displace or remove any trees or growing plants, buildings, bridges, tables, benches, fireplaces, railings, paving or paving material, waterlines or other public utilities, parts, or appurtenances thereof, signs, notices or placards, whether temporary or permanent, monuments, stakes, posts, or other boundary markers, or other structures or equipment, facilities or park property or appurtenances whatsoever, either real or personal.
- (2) Throw, discharge, or otherwise place or cause to be placed in the waters of any fountain, pond, lake, stream or other body of water in or adjacent to any park or any tributary, stream, storm sewer, or drain flowing into such waters, any substance, matter, or thing, liquid or solid, which will or may result in the pollution of such water.
- (3) Bring in, dump, or deposit:
 - a. Garbage created from activities which take place outside of a park (such as household garbage or commercial garbage) at any location within a city park or a garbage receptacle located in the park;
 - b. Garbage created from activities which take place inside a particular park in any location within that park other than a garbage receptacle located in that park or, if garbage receptacles are not provided or if they are full, such garbage shall be carried away from the park by the person responsible for its presence in the park, and properly disposed of elsewhere.

For purposes of this section, a person who obtains any permit for the use of a park or any facilities within a park is the person responsible for compliance with this section. As used in this subsection, the term "garbage" shall have its usual meaning and shall include, without limitation, any bottles, glass containers, broken glass, ashes, paper, boxes, cans, dirt, rubbish, waste, refuse, or other trash. No garbage shall be placed in any waters in or contiguous to any park.

- (4) Use of any profane, obscene, blasphemous language, or to be guilty of disorderly, lewd or lascivious conduct of any kind in any park.
- (5) ~~A person shall not~~ Smoke or possess a burning tobacco product within the boundaries of any city park, except in an RV park.
- (6) Endanger the safety of any person by any conduct or act.
- (7) Commit any assault, battery, or engage fighting.
- (8) Violate any rule for the use of the park, made or approved by the city.
- (9) Prevent any person from using any park or any of its facilities, or interfere with such use in compliance with this chapter and the rules applicable to such use.
- (10) Failure to yield the right-of-way to any pedestrian by any person who is riding a bicycle, roller skates, roller blades, scooter or skateboard on a park trail, sidewalk or parking lot in any park.
- (11) ~~Placement or erection of~~ Place or erect any structure, sign, bulletin board, post, pole or advertising device of any kind whatever in any park, or attaching any notice, bill, poster, sign, wire, rod or cord to any tree, shrub, fence, railing, post or structure therein without approval from the city manager.
- (12) Use of playground equipment or playground areas designated for children of a particular age by persons who are not in the designated age group.
- (13) ~~Parking~~ a motor vehicle:
 - a. Upon any park road, trail or sidewalk;
 - b. In any area where signs are posted by the city prohibiting parking; and

- c. Along any roadway within or adjacent to a park unless signs are posted by the city permitting parking in such areas.

Parking lots are available for the public at baseball and softball complexes.

- (14) ~~Driving~~ Drive any motorized vehicle over or through any park or park trail or sidewalk except any city maintenance vehicle or private vehicles needed for special events which have been approved by the city manager.

~~—Plying the vocation of a solicitor, agent, peddler, fakir, mendicant, beggar, strolling musician, organ grinder, exhorter or showman in any park without City Manager approval.~~

- (15) Selling or offering for sale any goods or wares or ~~staging stage~~ musical events without permission from or by contract with the city manager.

- (16) Walking, ~~skating skate~~, standing or sitting on any border, flowerbed, monument, vase, fountain, railing, or fence in any park.

(Ord. No. 08-11, § 5, 10-11-2011)

Sec. 15.04.060. Animals in city parks.

It shall be unlawful for any person to bring any dangerous animal into any city park; and it shall be unlawful to permit any dog to be in any city park unless such dog is on a leash not more than 12 feet long. Owners shall be responsible for cleanup and proper disposal of animal waste.

(Ord. No. 08-11, § 6, 10-11-2011)

Sec. 15.04.070. Tethering or pasturing animals.

It shall be unlawful for any person to tether or pasture any cow, horse, mule or domestic animal in or upon any park.

(Ord. No. 08-11, § 7, 10-11-2011)

Sec. 15.04.080. Horseback riding.

It shall be unlawful for any person to ride a horse on or across any park, park trail or sidewalk except for special events (such as pony rides, parades, etc.) with prior city manager approval.

(Ord. No. 08-11, § 8, 10-11-2011)

Sec. 15.04.090. Softball and baseball complexes.

Softball and baseball complexes are intended for games and practices associated with organized league. Public use by individuals and organizations other than those which are a part of an organized league shall only be permitted with the permission of the city manager. Lights for these complexes are used for organized team practices and games and will not be used for individual practice purposes.

(Ord. No. 08-11, § 9, 10-11-2011)

Sec. 15.04.100. Unlawful use.

It shall be unlawful for any person to use or occupy any city park in a manner inconsistent with the rules and regulations specified in this chapter or for any person to fail to comply with the rules and regulations specified in this chapter. Any person convicted of a violation of this section shall be punished by a fine in accordance with ~~current City of Linden Code of Ordinances~~ this Code.

(Ord. No. 08-11, § 10, 10-11-2011)

CHAPTER 15.08. HOURS FOR THE CROW-HEATH MEMORIAL PARK

Sec. 15.08.010. Hours established.

The city council hereby establishes hours of operation wherein the Crow-Heath Memorial Park will be open to the general public between the hours of 6:00 a.m. and 11:00 p.m. Monday through Sunday of each week. The park is hereby ordered closed and not opened to the general public between the hours of 11:00 p.m. and 6:00 a.m.

Monday through Sunday of each week.

(Ord. No. 02-94, § 1, 6-13-1994)

Sec. 15.08.020. Exception to closing times.

In the event an organized sporting event is being conducted at the Crow-Heath Memorial Park prior to the closing hour of 11:00 p.m. and such organized sporting event is not concluded by 11:00 p.m., then the park shall remain open for a sufficient period of time to allow the conclusion of the organized sporting event and for 30 minutes thereafter to allow the dispersal of persons attending the organized sporting event.

(Ord. No. 02-94, § 2, 6-13-1994)

Sec. 15.08.030. Definitions.

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

Organized sporting event means a sporting event involving boys' or girls' baseball programs and the actual playing of a baseball game.

(Ord. No. 02-94, § 2, 6-13-1994)

Sec. 15.08.040. Posting of signs and notices.

The city secretary shall cause to be posted at prominent places appropriate signs and notices stating the hours of operation for the park and penalties for violating and trespassing on park property after the park is closed.

(Ord. No. 02-94, § 3, 6-13-1994)

Sec. 4. Penalties.

~~Any person trespassing on park property after the closing hours between the hours of 11:00 p.m. and 6:00 a.m., except as provided herein for organized sporting activities, shall be guilty of a misdemeanor and shall be subject to a fine of not less than \$5.00 nor more than \$200.00; and upon conviction shall be fined in any sum not exceeding \$200.00; and each and every day's violation shall constitute a separate and distinct offense. Any person violating the terms of this Ordinance shall not be arrested, but shall be cited to appear before the Municipal Judge for the City of Linden, Texas, by way of citation as in other cases. The City Police for the City of Linden, Texas, shall have the express authority to eject any person found trespassing on park property after closing hours.~~

(Ord. No. 02-94, § 4, 6-13-1994)

Title 16

SOLID WASTE

State law reference—Solid Waste Disposal Act, V.T.C.A., Health and Safety Code § 361.001 et seq.; Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act, V.T.C.A., Health and Safety Code § 363.001 et seq.; municipal governing body regulatory authority concerning solid waste collection, etc., V.T.C.A., Health and Safety Code § 363.111; solid waste management service contracts, V.T.C.A., Health and Safety Code § 363.117.

(RESERVED)

PROOFS

Title 17

STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTIES

State law reference—Powers of general-law municipality over streets, V.T.C.A., Transportation Code § 311.002; additional authority of Type A municipality, V.T.C.A., Transportation Code § 311.003; street lighting in Type A municipality, V.T.C.A., Transportation Code § 311.902; use of municipal streets and sidewalks for public convenience and amenities, V.T.C.A., Transportation Code § 316.001 et seq.; municipal management of public rights-of-way used by telecommunications providers, V.T.C.A., Local Government Code § 283.001 et seq.; Type A municipality may prevent obstruction of sidewalk, V.T.C.A., Transportation Code § 316.003(1).

CHAPTER 17.04. STREETS, SIDEWALKS AND OTHER PUBLIC PROPERTIES IN GENERAL
(RESERVED)

~~Sec. 1-1. Use of tobacco products unlawful in city hall.~~

~~All smoking and chewing and spitting of tobacco and tobacco products inside the City Hall of the City of Linden, Texas, are hereby declared to be a public nuisance and it shall be unlawful for any person to smoke or chew tobacco products and spit inside the City Hall of the City of Linden, Texas.~~

~~Any person violating the terms of this ordinance shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$1.00 nor more than \$200.00 and upon conviction shall be fined in any sum not exceeding \$200.00; and each and every day's violation shall constitute a separate and distinct offense.~~

~~(Ord. No. 05-94, 10-3-1994)~~

CHAPTER 17.08. MOVING BUILDINGS AND VEHICLES

Sec. 17.08.010. Purpose.

The purpose of this chapter is to regulate the moving of vehicles, buildings or other structures, on the streets and highways within the city, that exceed an overall height of 13 1/2 feet from the ground up and an overall width of eight feet, in order to prevent the destruction of utility wires, decorations and other ornaments on the city streets, and requiring a permit without charge for the moving of same.

(Ord. No. 5-65, § 1, 11-17-1965)

Sec. 17.08.020. Permit required to move building.

No person, firm or corporation shall move or cause to be moved on the streets or highways within the city limits of the City of Linden, Texas, any vehicle, building or other structure, that exceeds an overall height from the ground up of 13 1/2 feet and an overall width of eight feet, without first having secured, from the city secretary of the City of Linden, Texas, a written permit granting the permission for the moving of such vehicle, building or other structure, and the time and manner and route in which same shall be moved, all of which shall be provided by the city secretary and signed by the secretary and attested with the seal of the city.

(Ord. No. 5-65, § 2, 11-17-1965)

~~Sec. 0-0. Violation, penalty.~~

~~Any person violating the provisions of this ordinance, shall upon conviction thereof, be fined in any sum not exceeding \$100.~~

~~The fact that the streets and highways of the City of Linden, Texas, are crossed by utility wires, ornaments and decorations, at the present time, and no ordinance exist requiring a permit for the removing of oversized vehicles, buildings and structures through the city, creates an urgency and an imperative public necessity that all rules and regulations requiring prior readings of ordinances be waived, and that this ordinance shall take effect and be in full force and effect after its passages, and it is so enacted.~~

~~(Ord. No. 5-65, § 3, 11-17-1965)~~

CHAPTER 17.12. PARADES AND DEMONSTRATIONS

Sec. 17.12.010. Definitions.

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

Parade means a procession of pedestrians, vehicles and animals or any combination thereof along or upon a street or other right-of-way, park or other place. The term "parade" shall also include a race or competition of any kind.

Sidewalk means the portion of a street between the curblines, or lateral lines of the roadway, and the adjacent property lines intended for the use of pedestrians, which area may or may not be improved by use of concrete, cement, asphalt or other material.

Street means the entire width between the boundary lines of every way publicly maintained, when any part thereof is open to the use of the public for purposes of vehicular traffic.

Street activity or *activity* means a dance, party, assemblage or any type of activity which is held in or makes use of a street or other right-of-way.

(Ord. No. 12-01, § 1, 7-9-2001)

Sec. 17.12.020. Permit required; exceptions.

(a) No person shall engage in, participate in, aid, form, or start any parade or other street activity without first applying for and obtaining from the city a permit for that parade or street activity.

(b) The requirement to obtain a permit shall not apply to the following:

- (1) Funeral processions.
- (2) Students going to and from school classes or participating in educational activities, provided such conduct is under the immediate direction and supervision of the proper school authorities.
- (3) A governmental agency acting within the scope of its functions.
- (4) Sidewalk processions which observe and comply with traffic regulations and traffic control devices, utilizing that portion of a sidewalk nearest the street, but at no time more than one-half of the sidewalk.
- (5) A peaceful demonstration at a fixed location which is not a street or sidewalk.

(Ord. No. 12-01, § 2, 7-9-2001)

Sec. 17.12.030. Route restrictions.

The route to be followed by any parade shall be designed so that it complies with the following restrictions: If the parade is to be held on a day other than a Saturday, Sunday, or holiday, it may not be held between the hours of 7:00 a.m. and 9:00 a.m., 11:00 a.m. and 1:00 p.m., or 3:00 p.m. and 6:00 p.m., except where specifically deemed allowable by the city clerk's office upon presentation of a valid reason by the applicant.

(Ord. No. 12-01, § 3, 7-9-2001)

Sec. 17.12.040. Permit request.

A person seeking issuance of a permit for a parade or other street activity shall file a request with the city clerk's office, as prescribed herein.

- (1) *Filing period.* A request for a permit shall be filed with the city clerk's office not less than 25 days before the date on which it is proposed to conduct the parade or street activity.
- (2) *Contents.* The request for a permit shall set forth the following information:
 - a. The name, address, and telephone number of the person seeking to conduct such parade or activity.
 - b. If the parade or activity is proposed to be conducted for, or on behalf of, or by an organization, the names, addresses and telephone numbers of the headquarters of the organization and of the authorized and responsible heads of such organization.

- c. The name, address, and telephone number of the person who will be the parade or activity chairman and who will be responsible for its conduct.
 - d. The date when the parade or activity is to be conducted.
 - e. The route to be traveled, including the starting point and the termination point of the proposed parade, or the street to be used for the activity.
 - f. The approximate number of persons who will participate in such parade or activity, the number and type of any animals which will participate, and the number and description of any vehicles which will be used.
 - g. The hours when such parade or activity will start and terminate.
 - h. A statement as to whether the parade or activity will occupy all or only a portion of the width of the streets proposed to be traversed.
 - i. The location by streets of any assembly areas for such parade or activity.
 - j. The time at which units of the parade will begin to assemble at any such assembly area ~~or areas~~.
 - k. The interval of space to be maintained between units of such parade or activity.
 - l. If the parade or activity is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the city clerk's office a communication in writing from the person proposing to hold the parade authorizing the applicant to apply for the permit on his behalf.
 - m. Any additional information which the city clerk's office shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (3) *Late application.* The city clerk's office, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than 25 days but a least seven days before the date such parade or activity is proposed to be conducted. On a late application, the applicant shall not have a right to appeal.
- (4) *Fee.* There shall be paid at the time of filing the application for a permit a nonrefundable processing fee of \$25.00.

(Ord. No. 12-01, § 4, 7-9-2001)

Sec. 17.12.050. Requirements.

(a) *Conditions or restrictions.* In deciding to grant a permit, the city clerk may place reasonable conditions or restrictions upon the grant of the permit. At the time the applicant is notified of the city clerk's decision, he shall also be notified of the conditions or restrictions. The applicant may appeal the imposition of the conditions or restrictions in the same manner as an appeal from a permit denial.

(b) *Cost.* All permits shall be conditioned upon payment of the city's estimated cost for traffic control, including the erection of barricades and the use of police personnel. The estimated cost must be paid at least 48 hours in advance of the parade or activity. Within ten days of the completion of the parade or activity, the actual cost will be determined. If the estimated cost exceeds the actual cost, the difference will be refunded to the permittee. If the estimated cost is less than the actual cost, the permittee shall be billed for the difference.

(c) *Waivers.* All permits shall be conditioned upon the execution of a waiver of liability and assumption of risk form by the applicant and other persons as specifically set out in the city clerk's decision notification. Additionally, the permittee may be required to execute a hold harmless agreement with the city.

(Ord. No. 12-01, § 5, 7-9-2001)

Sec. 17.12.060. Standards for issuance.

The city clerk's office shall issue a permit under this chapter when, from a consideration of the request and from such other information as may otherwise be obtained, he finds that:

- (1) The conduct of the parade or activity will not substantially interrupt the safe and orderly movement of

other traffic contiguous to its route;

- (2) The conduct of the parade or activity will not require the diversion of so great a number of police officers of the city to properly police the parade activity and the areas contiguous thereto as to prevent normal police protection to the city;
- (3) The conduct of such parade or activity will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than that to be occupied by the parade or activity and areas contiguous thereto;
- (4) The concentration of persons, animals, and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas;
- (5) The conduct of such parade or activity will not interfere with the movement of firefighting equipment en route to a fire;
- (6) The conduct of the parade or activity is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct, or to create a disturbance; and
- (7) The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays en route.

(Ord. No. 12-01, § 6, 7-9-2001)

Sec. 17.12.070. Notice of decisions.

The city clerk shall act upon the request for a permit within seven days after the filing thereof. If the city clerk disapproves the request or places certain conditions upon the granting of the permit, he shall mail to the applicant, within seven days after the date upon which the request was filed, a notice of his action which sets out the reasons for the action.

(Ord. No. 12-01, § 7, 7-9-2001)

Sec. 17.12.080. Appeal procedure.

Any person aggrieved shall have the right to appeal the denial of a permit to the city council. The appeal shall be taken within three days, excluding Saturdays, Sundays and holidays, after notice of rejection or notice of issuance, subject to certain conditions, by filing a written notice of appeal with the city clerk's office. This notice of appeal shall contain a statement indicating what the person objects to and the reason for the objection. The city council shall act upon the appeal within seven days, excluding Saturdays, Sundays and holidays, after its receipt, unless the person filing the appeal waives this requirement.

(Ord. No. 12-01, § 8, 7-9-2001)

Sec. 17.12.090. Possession of permit.

The chairman or other person heading or leading such parade or activity shall carry the permit upon his person during the conduct of the parade or activity.

(Ord. No. 12-01, § 9, 7-9-2001)

Sec. 17.12.100. Public conduct during parades or street activity.

(a) *Interference.* No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade or any other permitted activity.

(b) *Driving through parades.* No driver of a vehicle shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.

(c) *Parking on parade route.* The chief of police or the traffic operations manager shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The traffic services division shall post signs to such effect, and it shall be unlawful for any person to park or ~~leave~~ leave unattended any vehicle in violation thereof. No person shall be liable for

parking on a street unposted in violation of this chapter.

(Ord. No. 12-01, § 10, 7-9-2001)

CHAPTER 17.16. ROAD CLOSURE¹²

Sec. 17.16.010. Parameters for closing of roads.

(a) The city does not want to impede commerce and traffic flow. Therefore, road closure will always include an alternate traffic flow and proper barricades to warn traffic.

(b) The city deems that several occasions during the year, to include Wildflower Trails Festival, Linden Christmas on the Square, Martin Luther King Jr. day, Heritage Foundation Music on the Square, Veterans Salute and any event designated in writing by the mayor as beneficial to the city, may ~~request~~ require road closure to ensure safety of crowds and gathered people for the event. These roads can be both city and state controlled roads. If a state road is closed, the state will be notified and the city will coordinate with them.

(Ord. No. 10-18, 9-10-2018)

PROOFS

¹² **Road Closure:** MCC received an Ord. No. 10-18 purporting to "set forth parameters for closures of streets within" the city limits, but the only "parameters" set forth were those set out above. Is that all there was?

Title 18
TAXATION

CHAPTER 18.04. TAXATION IN GENERAL (RESERVED)

CHAPTER 18.08. AD VALOREM TAXES

Sec. 18.08.010. Ad valorem tax exemption for charitable organizations.

All charitable organizations exempt under the Texas Property Tax Code are hereby considered to be exempt from ad valorem property taxes of the city.

(Ord. No. 12-97, 11-10-1997)

CHAPTER 18.12. HOTEL OCCUPANCY TAX

Sec. 18.12.010. Name designation.

The tax levied or imposed in this chapter shall be referred to as the hotel occupancy tax.

(Ord. No. 07-06, 10-10-2006)

Sec. 18.12.020. Imposition of tax.

There is levied or imposed by the city council a tax on any person, partnership, corporation, limited partnership, or any other entity who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use, occupancy, or possession or for the right to the use, occupancy, or possession of a room that is in a hotel, motel, bed and breakfast, or similar rental facility situated within the city limits or within the extraterritorial jurisdiction of the city, cost \$2.00 or more each day, and is ordinarily used for sleeping. The price of a room in a hotel, motel, or bed and breakfast, or such similar rental facility does not include the cost of food served by the hotel, motel, bed and breakfast, or such similar rental facility and the cost of personal services performed by the hotel, motel, bed and breakfast, or similar rental facilities for the person except for those services related to cleaning and readying the room for use and possession. The rate of such tax shall be equal to seven percent of the price or consideration paid by the occupant of such room and space in such hotel, motel, bed and breakfast, or similar rental facility. The tax levied and imposed in this section is pursuant to V.T.C.A., Tax Code § 351.001 et seq. The meaning and definition of the words, terms, and phases in this section are defined in V.T.C.A., Tax Code § 351.001 et seq. The tax imposed upon a hotel, motel, bed and breakfast, or similar rental facility situated in the extraterritorial jurisdiction of the city shall begin October 10, 2006.

(Ord. No. 07-06, 10-10-2006)

State law reference—V.T.C.A., Tax Code §§ 351.002, 351.0025; tax rate, V.T.C.A., Tax Code § 351.003.

Sec. 18.12.030. Use of revenues.

The hotel occupancy tax levied and collected in this chapter may be used only to promote tourism and the convention and hotel industry and that use is limited to only those specific purposes and uses set forth in V.T.C.A., Tax Code § 351.101, and will be spent for the purposes set forth therein, limited to the amount, if any, to be paid therein for certain uses such as the encouragement and promotion of the arts, and shall be paid in the manner provided and required therein.

(Ord. No. 07-06, 10-10-2006)

State law reference—V.T.C.A., Tax Code § 351.101.

Sec. 18.12.040. Payment of revenues.

The hotel occupancy tax attributable to and owed for each month shall be due and payable on or before the 20th day of the following calendar month. By way of example, the hotel occupancy tax owed for January of each year shall be due and payable on or before February 20 of such year.

(Ord. No. 07-06, 10-10-2006)

Sec. 18.12.050. Allocation of revenue.

(a) The hotel occupancy tax collected by the city shall be expended only in the manner as provided by V.T.C.A., Tax Code § 351.101 et seq., of the municipal occupancy taxes as found in the Texas Tax Code.

(b) The city delegates the management and supervision of programs and activities funded with revenue from the tax authorized by this chapter to Linden Main Street. The city shall approve in advance the annual budget of Linden Main Street and shall require Linden Main Street to make periodic reports to the city council, at least quarterly, listing the expenditures and sub-grants made by Linden Main Street with revenue from the tax authorized by this chapter. Linden Main Street must maintain revenue provided from the tax authorized by this chapter in a separate account established for that purpose and may not commingle that revenue with any other money.

(Ord. No. 07-06, 10-10-2006; Ord. of 3-13-2017)

State law reference—Hotel occupancy tax, V.T.C.A., Tax Code § 351.101.

Sec. 18.12.060. Penalties.

(a) The city shall have all remedies, penalties and other enforcement procedures as provided by V.T.C.A., Tax Code § 351.001 et seq., including those penalties set forth in V.T.C.A., Tax Code § 351.004.

(b) A person guilty of violating the provisions of this chapter shall, upon conviction, be guilty of a misdemeanor offense punishable as provided for in LMC 1.00.090.

(Ord. of 3-18-1999(1), § 14.6; Ord. No. 07-06, 10-10-2006)

State law reference—Misdemeanor authorized, V.T.C.A., Tax Code § 351.004.

Title 19

TRAFFIC AND VEHICLES

State law reference—Uniform traffic control law, V.T.C.A., Transportation Code § 541.001 et seq.; powers of local authorities regarding regulation of traffic, V.T.C.A., Transportation Code § 542.202; limitations on local authorities, V.T.C.A., Transportation Code § 542.203; municipal restrictions on use of state highways, 25 Tex. Admin. Code §§ 25.601--25.603; local authorities may regulate and license bicycles, V.T.C.A., Transportation Code § 542.202(a)(4); local ordinances concerning pedestrians, V.T.C.A., Transportation Code § 552.009; municipal authority to regulate standing and parking, V.T.C.A., Transportation Code § 542.202(a)(2); municipal authority to regulate by traffic control devices, V.T.C.A., Transportation Code § 542.202(a)(1); municipal regulation of loads and equipment, V.T.C.A., Transportation Code § 621.303.

CHAPTER 19.04. TRAFFIC AND VEHICLES IN GENERAL**Sec. 19.04.010. Speed limits on city streets.**

It shall be unlawful for the driver of any motor vehicle to drive said vehicle upon a city street ~~of the city of Linden, Texas,~~ not a U.S. highway; state highway; or Texas Farm to Market Road at a speed in excess of 30 miles per hour, except for those city streets which are expressly posted at a lesser speed of either 20 miles per hour or ten miles per hour, as the case may be, and for those streets so posted, the lawful speed for such city street shall be the posted speed limit.

- (1) The above speed for vehicular traffic is found to be reasonable and safe prima facie speed and the fact of this regulation of the speed of motor vehicles creates an emergency which is for the immediate preservation of public safety and general welfare, requires that this section take effect immediately from and after its passage and publication and it is accordingly so ordained.
- (2) The city is authorized and shall erect signs indicating the speed limits herein designated.
- (3) Any person violating any provision of this section shall, upon conviction, be deemed guilty of a misdemeanor and shall be fined in any sum not to exceed \$200.00.
- (4) All ordinances in conflict herewith are hereby repealed.

~~— If any portion of this ordinance shall be judicially determined to be invalid, such invalidity shall be and affect only that portion so found and it shall not be construed so as to affect or otherwise impair the validity of the remaining portions thereof.~~

(Ord. No. 09-97, 9-8-1997)

CHAPTER 19.08. PARKING SPACES FOR THE DISABLED

State law reference—Privileged parking, V.T.C.A., Transportation Code § 681.001 et seq.

Sec. 19.08.010. Definition.

The term "disability," ~~DISABLED~~ as used herein, shall have the same definition as set out in ~~Texas~~ V.T.C.A., Transportation Code § 681.001 ~~Revised Civil Statutes, Article 6675a-5e.1.~~

(Ord. No. 14-97, § 1, 12-8-1997)

Sec. 19.08.020. Designation.

The city clerk is authorized to designate specific parking spaces upon public property as ~~disabled handicapped~~ parking spaces. The owner of private property open to the public for parking purposes may, with the authorization and approval of the city clerk, designate specific spaces as handicapped parking spaces. All such spaces shall be designated by signs legibly stating that such parking ~~space or spaces~~ are restricted to use only by the handicapped. A record of such designation, approval, and the location of such signs shall be maintained by the city clerk, or under his authority, for the purpose of enforcement of the provisions of this chapter.

(Ord. No. 14-97, § 2, 12-8-1997)

Sec. 19.08.030. Authorized parking only.

Only disabled persons or persons transporting a disabled person shall park a vehicle in any parking space or parking area designated specifically for the ~~disabled physically handicapped~~ in accordance with LMC 19.04.020 and it is an offense for any person not so disabled or not transporting a disabled person to park a vehicle in any such designated parking space.

(Ord. No. 14-97, § 3, 12-8-1997)

Sec. 19.08.040. Prima facie evidence.

It shall be prima facie evidence of the fact that a vehicle is not parked or used for the transportation of disabled persons if the vehicle does not have a specially designated symbol ~~tab-tag~~ or device stating "disabled" thereupon and issued by the state highway department and properly displayed on the vehicle.

(Ord. No. 14-97, § 4, 12-8-1997)

Sec. 19.08.050. Enforcement.

All parking provisions of this chapter shall be enforced by the police department of the city or by a qualified city employee duly appointed by the city clerk.

(Ord. No. 14-97, § 5, 12-8-1997)

Sec. 19.08.060. Penalty.

(a) *Generally.* Any person who violates the provisions of this chapter for which no other penalty is set forth shall be deemed guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not less than \$5.00 nor more than \$200.00. If the fine is not paid within ten days of the occurrence of the offense, the minimum fine shall be \$10.00.

(b) *Parking offenses.* ~~General.~~ Each hour that a vehicle is parked in violation of any provision of this chapter constitutes a separate and distinct offense.

(Ord. No. 14-97, § 6, 12-8-1997)

CHAPTER 19.12. VEHICLE OPERATION ON PUBLIC WALKING AND RUNNING TRAILS**Sec. 19.12.010. Purposes and findings.**

~~Purposes.~~ The purposes of this chapter are to:

- (1) Protect citizens walking or running on the city public park paths that are designed for that activity;
- (2) Prevent the operation of any motorized vehicles on or across the city trails designed for walking and running.

(Ord. No. 14-01, § 1, 12-10-2001)

Sec. 19.12.020. Definitions.

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

Motorized vehicle means a bicycle having a method of propelling the same by means other than by physical exertion; a motor bike; moped; three-wheeler; four-wheeler; lawn tractor; garden tractor; automobile; or any other method of transportation which uses for propulsion an electric or gasoline operated engine.

Operator means any individual, firm, association, partnership, or corporation operating, driving, or using any motorized vehicle as defined above.

(Ord. No. 14-01, § 2, 12-10-2001)

Sec. 19.12.030. Offenses.

- (a) It shall be unlawful for any person to be the operator of and to operate any motor vehicle, as defined

herein, upon any public path designed and adapted primarily for walking or running located in any city park ~~in the City of Linden, Texas.~~

(b) It shall be unlawful for the parent of any minor, being defined as any child under the age of 17 years, to knowingly permit or by inefficient control to allow such minor to operate a motor vehicle in or upon any public walking or running path in any city park ~~in the city of Linden, Texas.~~ The term "knowingly" includes knowledge which a parent should reasonably be expected to have concerning the whereabouts of a minor in that parent's legal custody.

(Ord. No. 14-01, § 3, 12-10-2001)

Sec. 19.12.040. Penalties.

(a) Any person who violates any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be ~~punishable~~ punished by a fine in accordance with the penalty provision found in this section, and by any appropriate action by any juvenile court in accordance with V.T.C.A., Family Code § 51.08 and V.T.C.A., Penal Code § 8.07.

(b) A parent of a minor who violates this chapter shall be guilty of a misdemeanor and, upon conviction, shall be ~~punishable~~ punished by a fine in accordance with LMC 1.00.090.

(c) Any person violating the terms of this chapter shall be deemed guilty of a misdemeanor and shall be subject to a fine of not less than \$1.00 nor more than \$200.00 and, upon conviction, shall be fined in any sum of not less than \$1.00 nor more than \$200.00.

(Ord. No. 14-01, § 4, 12-10-2001)

CHAPTER 19.16. SKATEBOARDS, SCOOTERS, SKATES, AND BICYCLES

Sec. 19.16.010. Purpose.

The purpose of this chapter is to provide for the orderly operation of skateboards, scooters, skates and bicycles within the city, and to specifically prohibit their use within certain areas designated within the downtown area.

(Ord. No. 10-10, § 1, 11-8-2010)

Sec. 19.16.020. Definitions.

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

City means the City of Linden, Texas

Downtown area means that portion of the city designated as the downtown area per the following description, as it may be amended from time to time: Downtown extends from north to south from Frazier Street to Banger Street, and east to west from Hamilton Street to Blalock Street.

Operate means to ride upon, drive, propel or otherwise convey oneself or others on skateboards, scooters, skates, and bicycles.

Skateboards, scooters, skates, and bicycles means vehicles used for the propulsion of people by human power, not subject to registration under state motor vehicle laws, including, but not limited to, bicycles, scooters, skateboards, roller skates, and roller blades. This designation does not include any device operated by a person or a person directly assisting a person, who is unable to walk or otherwise ambulate without the assistance of a human-powered conveyance.

Vehicle means skateboards, scooters, skates, and bicycles.

(Ord. No. 10-10, § 2, 11-8-2010)

Sec. 19.16.030. Restricted areas.

(a) *Operating to endanger.* No person shall operate a skateboard, scooter, skates, or bicycle so as to endanger any pedestrian on any public way or in such a manner as might discourage any pedestrian from the peaceful use of such public ways or in such a manner as to interrupt the smooth flow of automobile traffic.

(b) *Sidewalks.* No person shall operate a skateboard, scooter, skates, or bicycle on any sidewalk, or public walkway, ~~as that term is defined~~ at in the area designated as the downtown area.

(c) *Operation prohibited.* The operation of skateboards, scooters, and skates, is prohibited, at times other than special events created by or approved by the city council, in the area designated as the downtown area.

(Ord. No. 10-10, § 3, 11-8-2010)

Sec. 19.16.040. Violation and penalty.

Violation of this chapter may be punishable by a Class C misdemeanor of not less than \$25.00 and not more than \$500.00 or by impoundment of the vehicle which was operated in the commission of such violation for a period not to exceed 30 days, or both. Community service is considered a viable alternative at the discretion of the courts for payment of fines.

(Ord. No. 10-10, § 4, 11-8-2010)

CHAPTER 19.20. GOLF CARTS

Sec. 19.20.010. Definitions.

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

Golf cart means a motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.

(Ord. No. 08-15, 9-14-2015)

Sec. 19.20.020. Golf cart operation.

(a) A person may operate a golf cart on any public street or highway within the corporate boundaries of the city with a speed limit of not more than 35 miles per hour so long as the golf cart is equipped with head lamps, tail lamps, reflectors, a parking brake and rear view mirrors.

(b) The operator of a golf cart must be not less than 17 years of age and must have a driver's license and must be insured by a policy of liability insurance providing coverage for operation of the golf cart. A person operating a golf cart on a public street within the corporate boundaries of the city pursuant to this chapter may cross a road or street within the corporate boundaries of the city with a speed limit over 35 miles per hour.

(Ord. No. 08-15, 9-14-2015)

Sec. 19.20.030. Penalty.

A person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not to exceed \$500.00 for each offense.

(Ord. No. 08-15, 9-14-2015)

CHAPTER 19.24. TRUCK ROUTES

Sec. 19.24.010. Definitions.

~~The following words and phrases when used in this ordinance shall, for the purposes of this act, have the meaning respectively ascribed to them in this ordinance.~~ The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Authorized emergency vehicles means vehicles of the fire department (fire patrol), police vehicles, and such ambulances and emergency vehicles of the city departments or public service corporation as are designated or authorized by the mayor.

Passenger vehicles means vehicles normally used for private use and carrying less than ten passengers, commonly referred to as automobiles.

Pickup truck means a vehicle commonly referred to as such with the rating of one ton or less.

Pole trailer means every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for the transporting of long or irregularly shaped loads, such as poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Road tractor means every motor vehicle designed and used for drawing other vehicles and not so constructed as to carry any load thereon either independently or any part of the weight of a vehicle or load so drawn.

School bus means every motor vehicle owned by a public or governmental agency and operated for the transportation of children to or from school.

Semi-trailer means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Trailer means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that no part of its weight rests upon the towing vehicles.

Truck means every motor vehicle designed, used or maintained primarily for the transportation of property, but not including that group or class of vehicles commonly referred to as pickup truck, whose rating in tonnage is one ton or less.

Truck tractor means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Utility trailer means every vehicle without motive power equipped with either two or four wheels designed to carry light loads and to be drawn by a passenger vehicle, used primarily in and about private residence, and not normally used as a commercial vehicle.

(Ord. No. 07-17, § 2, 11-13-2017)

Sec. 19.24.020. Unlawful operation on state highways within city limits.

It shall be hereafter unlawful for any person to operate or drive a ~~the~~ truck tractor, road tractor, truck, or pull a trailer or semi-trailer, or pole trailer in and upon the state highways ~~heretofore~~ designated within the city limits ~~of the City of Linden, Texas.~~

(Ord. No. 07-17, § 3, 11-13-2017)

Sec. 19.24.030. Conditions for lawful entry in otherwise prohibited areas.

(a) ~~That~~ Under the following conditions, trucks and truck tractors may enter those prohibited areas: Where such truck or truck tractor's purpose for entering is to go to the operator's residence, and where such entry is made and the vehicle is parked overnight, the operator must park the same off of the city street.

(b) ~~That~~ This chapter is not to be understood to apply to the following vehicles, and unless otherwise regulated, ~~then~~ they are specially exempt:

- (1) Authorized emergency vehicles, as defined in this chapter.
- (2) Vehicles making delivery or pickup in such restricted area.
- (3) Utility trailers, as defined in this chapter, except such utility trailers shall not be left parked upon the public streets or sidewalks overnight.
- (4) Pickup trucks as defined in this chapter.
- (5) School buses.

(Ord. No. 07-17, § 4, 11-13-2017)

Sec. 19.24.040. Appropriate signs.

~~That~~ Appropriate signs and markers designating restricted entrance shall be constructed subject to the approval of the state highway department.

(Ord. No. 07-17, § 5, 11-13-2017)

Sec. 19.24.050. Penalty.

Any person, firm or corporation violating any provision of this chapter or ~~fails~~ failing to observe any provisions hereof shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in a sum of not more than \$100.00.

(Ord. No. 07-17, § 6, 11-13-2017)

PROOFS

Title 20 UTILITIES

State law reference—Municipal utility systems, general powers, V.T.C.A., Local Government Code § 402.001 et seq.; municipal jurisdiction over water and sewer utility rates, operations and services, V.T.C.A., Water Code § 13.042(a); municipal power regarding sewers and privies, V.T.C.A., Health and Safety Code § 342.002; Type A municipality may require owners of private drains and privies to clean, repair, or improve them, V.T.C.A., Local Government Code § 214.014; municipality may provide sanitary sewer system and require connections, V.T.C.A., Local Government Code § 214.003; local government authority to control waste discharges and require pretreatment, V.T.C.A., Water Code § 26.176; public water suppliers required by rule to develop drought contingency plans, V.T.C.A., Water Code § 11.1272.

CHAPTER 20.04. UTILITIES IN GENERAL (RESERVED)

CHAPTER 20.08. SEWERS

Sec. 20.08.010. Sanitary sewer ordinance incorporated by reference.¹³

Ord. No. 1-82, setting forth requirements for sewer connections and prescribing penalties for violations of said requirements, is incorporated by reference. (The ordinance is on file in the city office for public inspection.)

(Ord. No. 1-82, 3-8-1982)

CHAPTER 20.12. LIQUID WASTE DISPOSAL

Sec. 20.12.010. Definitions.

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

Clerk means the city clerk or his duly authorized representative.

Disposal facility means the city facilities permitted or approved by the state department of health to accept liquid waste for treatment and disposal.

Generator means a person who causes, creates, generates, or otherwise produces waste.

Grease trap means a water-tight receptacle designed and constructed to intercept and prevent the passage of greasy, fatty liquid, semi-liquid, and/or solid wastes generated from operations into the sanitary sewer system to which the receptacle is directly or indirectly connected.

Grease trap waste means waste intercepted and held by grease traps.

Grit trap means a water-tight receptacle designed and constructed to intercept and prevent the passage of petroleum-based oil, grease wastes and solids into the sanitary sewer system to which the receptacle is directly or indirectly connected.

Grit trap waste means petroleum-based oil, grease wastes and solids from commercial automotive or heavy machinery repair and/or washing facilities.

Hazardous waste material means any kind of liquid waste or mixture thereof which:

- (1) Because of concentration or physical or chemical characteristics, is toxic, corrosive, flammable, a strong sensitizer or irritant, explosive, or otherwise poses a present or potential danger to human health or to the environment ~~which when~~ improperly processed, stored, transported or otherwise managed; or
- (2) Is classified as a hazardous waste pursuant to state law.

¹³ **Sanitary sewer ordinance:** If the city wishes to publish the full ordinance requirements, please provide the complete ordinance and MCC will be glad to publish the text.

Incompatible waste means wastes which, when mixed or commingled, tend to produce a danger of explosion, fire, release of toxic vapors, adverse chemical reaction or which coagulate into a viscous or solid mass, or cause other danger to persons, property or a waste disposal system.

Industrial waste means liquid waste resulting from or incidental to any process of industry, manufacturing, mining, or agricultural operations.

Liquid waste means discarded mixtures of water, water-borne solids, liquids or gaseous substances, including grease trap waste, grit trap waste, septage, chemical toilet waste, hazardous waste, and industrial liquid waste.

Liquid waste disposer or *disposer* means a person who receives, stores, retains, processes or disposes of the liquid waste of a liquid waste generator.

Permit means a septage disposal permit issued pursuant to Sub-Sec. _____.

Person means any individual, corporation, partnership, trust, association, or government or legal entity.

Septage means waste pumpings from septic tanks.

Shall, ~~means the word "shall"~~ whenever used in this chapter, will be interpreted in its mandatory sense; the term "may" is permissive.

Spill means any accidental or unintentional loss or unplanned and unauthorized discharge of ten gallons or more of liquid waste.

Transporter means a person who hauls liquid waste.

Vehicle means a mobile device in which, or by means of which, liquid waste may be transported upon a public street or highway.

(Ord. No. 15-00, 12-11-2000)

Sec. 20.12.020. Disposal of liquid waste; responsibilities of liquid waste disposers.

(a) It is unlawful for any person to dispose of, unload, or offer for sale or exchange liquid waste except at a place permitted or approved by the state.

(b) The city clerk ~~of the City of Linden, Texas,~~ will designate the city disposal facilities.

(c) It is unlawful for any person to deposit or discharge liquid waste onto a street or into any municipal storm or sanitary sewer or an area that drains into the storm or sanitary sewer system.

(d) It is unlawful for any person to allow liquid waste to accumulate on his premises in a way that rainfall could carry the material to the municipal storm or sanitary sewers or onto adjacent property or create a noxious odor or health hazard.

(e) A liquid waste disposer shall:

- (1) Comply with all applicable federal, state, and municipal laws and regulations respecting the disposal of liquid waste;
- (2) Accept waste only from a transporter duly registered with the state department of health;
- (3) Make available for inspection and copying during regular business hours all records required to be kept for inspection;
- (4) Receive septage between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, with disposal during other hours arranged under emergency situations depending on facility operations and personnel availability;
- (5) Verify correct transporter disposal procedures, including confirmation of actual load volume.

(Ord. No. 15-00, 12-11-2000)

Sec. 20.12.030. Responsibility of corporations or associations; penalty.

(a) In addition to prohibiting certain conduct by natural persons, it is the intent of this chapter to hold a corporation or association legally responsible for prohibited conduct performed by an agent acting on behalf of a

corporation or association and within the scope of his office or employment.

(b) Any person found to be guilty of violating provisions of this chapter shall pay to the city compensation for any expense, loss, or damage occasioned by the city by violation of this chapter, including costs of cleanup and proper disposal of waste materials. Additionally, an administrative fee equal to one-half of cleanup costs may be assessed by the city clerk to pay for the administrative costs of enforcement by the city against the guilty person.

(Ord. No. 15-00, 12-11-2000)

CHAPTER 20.16. WATER

Sec. 20.16.010. Drought contingency plan adopted by reference.

~~That~~ The City of Linden, Texas Drought Contingency Plan attached ~~hereto~~ to the ordinance codified in this section as Exhibit "A" ~~and is made part hereof of this section~~ for all purposes ~~be~~, and the same is hereby adopted as the official policy of the city.

(Ord. No. 07-02, 9-10-2007)

Sec. 20.16.020. Well site regulations.

(a) No well site which is within 50 feet of a tile or concrete sanitary sewer, sewerage appurtenance, septic tank, storm sewer, or cemetery; or which is within 150 feet of a septic tank perforated drainfield, areas irrigated by low dosage, low angle spray on-site sewage facilities, absorption bed, evapotranspiration bed, improperly constructed well, or underground petroleum and chemical storage tank or liquid transmission pipeline, will be acceptable for use as a public drinking water supply.

(b) Sanitary or storm sewers constructed of ductile iron or polyvinyl chloride (PVC) pipe meeting American Water Works Association (AWWA) standards, having a minimum working pressure of 150 pounds per square inch (psi) or greater, and equipped with pressure type joints may be located at distances of less than 50 feet from a proposed well site, but in no case shall the distance be less than ten feet.

(c) No well site shall be located within 500 feet of a sewage treatment plant or within 300 feet of a sewage wet well, sewage pumping station, or a drainage ditch which contains industrial waste discharges or the wastes from sewage treatment systems.

(d) No water wells shall be located within 500 feet of animal feed lots, solid waste disposal sites, lands on which sewage plant or septic tank sludge is applied, or lands irrigated by sewage plant effluent.

(e) Livestock in pastures shall not be allowed within 50 feet of water supply wells.

(f) All known abandoned or inoperative wells (unused wells that have not been plugged) within one-fourth mile of a proposed well site shall be reported to the commission along with existing or potential pollution hazards. These reports are required for community and nontransient, noncommunity groundwater sources. Examples of existing or potential pollution hazards which may affect groundwater quality include, but are not limited to, landfill and dump sites, animal feedlots, military facilities, industrial facilities, wood-treatment facilities, liquid petroleum and petrochemical production, storage, and transmission facilities, Class 1, 2, 3, and 4 injection wells, and pesticide storage and mixing facilities. This information must be submitted prior to construction or as required by the executive director.

(Ord. No. 10-13, 10-15-2013)