

1999

CODE OF ORDINANCES

**TOWN
OF
SAN FELIPE, TEXAS**

GENERAL ORDINANCES OF THE TOWN

PUBLISHED BY THE ORDER OF THE TOWN COUNCIL

**GOVERNMENTAL SERVICE AGENCY, INC.
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CHAPTER 1

GENERAL PROVISIONS

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ARTICLE 1.100 CODE OF ORDINANCES***Sec. 1.101 Designation and Citation of Code**

The ordinances embraced in this and the following chapters, articles and sections shall constitute and be designated the "Code of Ordinances, 1999, City of San Felipe, Texas." and may be so cited.

Sec. 1.102 Catchlines of Articles and Sections

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

Sec. 1.103 Definitions and Rules of Construction

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

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

City. The words "the city" or "this city" shall be the City of San Felipe, the County of Austin and the State of Texas. As used herein, "city" and "town" may be used interchangeably.

City Councilmember. As used herein, shall refer to a member of the governing body of the City of San Felipe, Texas.

City Council. Shall refer to the governing body of the City of San Felipe. The terms "governing body" and "board of aldermen" shall mean the city council.

City Manager, City Secretary and Other City Officers or Departments. Shall be construed to mean the city manager, city secretary or such other municipal officers or departments, respectively, of the City of San Felipe, Texas. Reference to an officer or employee by title shall include his or her duly authorized assistants or representatives.

Computation of Time. Whenever a notice is required to be given or an act to be done a certain length of time before any proceeding shall be had, the day on which such notice is

* State Law reference—Authority of municipality to codify ordinances. V.T.C.A., Local Government Code, Chapter 53.

given or such act is done shall be counted in computing the time, but the day on which such proceeding is to be had shall not be counted.

Council. Whenever the term “council,” “this council,” or “the council” is used, it shall mean the city council of the City of San Felipe, Texas.

County. The term “county” or “this county” shall mean the County of Austin, Texas.

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.

Month. Shall mean a calendar month.

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

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

Official Time Standard. Whenever certain hours are named herein, they shall mean standard time or daylight savings time as may be in current use in the city.

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

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

Preceding and Following. Shall mean next before and next after, respectively.

Sidewalk. Shall mean that portion of a street between the curblin e or the lateral line of a roadway, and the adjacent property line intended for the use of pedestrians.

Signature or Subscription. Shall include a mark when a person cannot write.

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

Street. Shall have its commonly accepted meaning and shall include highways, sidewalks, alleys, avenues, recessed parking areas and other public rights-of-way including the entire right-of-way.

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

V.T.C.S., V.T.P.C., V.T.C.C.P. Refer to the divisions of Vernon's Texas Statutes Annotated.

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

Year. Shall mean a calendar year.

Sec. 1.104 Amendments to Code

(a) All ordinances passed subsequent to the adoption of this code, which amend, repeal or in any way affect this code, may be numbered in accordance with the numbering system of this code and printed for inclusion therein. When subsequent ordinances repeal any chapter, article, section or subsection or any portion thereof, such repealed portions may be excluded from the code by omission from reprinted pages. The subsequent ordinances as numbered and printed or omitted in the case of repeal, shall be prima facie evidence on such subsequent ordinances until such time that this code and subsequent ordinances numbered or omitted are readopted as a new code by the city council.

(b) Amendments to any of the provisions of this code shall be made by amending such provisions by specific reference to the article and section number of this code in the following language:

"That Chapter ____, Article ____, Section ____, of the Code of Ordinances, City of San Felipe, Texas, is hereby amended to read as follows: ..."

The new provisions shall then be set out in full as desired.

(c) In the event a new article or section not heretofore existing in the code is to be added, the following language shall be used:

"That Chapter ____, of the Code of Ordinances, City of San Felipe, Texas, is hereby amended by adding a section, to be number Article/Section ____, which said article/section shall read as follows: ..."

The new article or section shall then be set out in full as desired.

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

Sec. 1.105 Supplementation of Code

(a) By contract or by city personnel, supplements to this code shall be prepared and printed whenever authorized or directed by the city council. A supplement to the code

shall include all substantive permanent and general parts of ordinances passed by the city council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the code. The pages of a supplement shall be so numbered that they will fit properly into the code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the code will be current through the date of the adoption of the latest ordinance included in the supplement.

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

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

- (1) Organize the ordinance material into appropriate subdivisions;
- (2) Provide appropriate catchlines, headings and titles for articles, 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 articles, sections and other subdivisions to be inserted in the code and, where necessary to accommodate new material, change existing article or section or other subdivision numbers;
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this section," "this subsection," etc., as the case may be; and
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance articles or sections inserted into the code; but, in no case, shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the code.

Sec. 1.106 General Penalty for Code Violations*

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

* State Law reference—Authority of municipality to assess fines. V.T.C.A., Local Government Code, Sec. 54.001.

- (1) violations of municipal ordinances that govern fire safety, zoning, public health and sanitation, including dumping of refuse, vegetation and litter violations in which the maximum fine shall be two thousand dollars (\$2,000.00) for each offense, and
- (2) violations of traffic laws and ordinances which are punishable as a Class C misdemeanor shall be punished by a fine not to exceed two hundred dollars (\$200.00).

However, no penalty shall be greater or less than the penalty provided for the same or similar offense under the laws of the state.

(b) Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense. Any violation of any provision of this Code of Ordinances which constitutes an immediate danger to the health, safety, and welfare of the public may be enjoined in a suit brought by the city for such purposes.

Sec. 1.107 Severability of Parts of Code

It is hereby declared to be the intention of the city council that the articles, sections, paragraphs, sentences, clauses and phrases of this code are severable and, if any article, section, paragraph, sentence, clause or phrase of this code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining articles, sections, paragraphs, sentences, clauses and phrases of this code since the same would have been enacted by the city council without the incorporation in this code of any such unconstitutional article, section, paragraph, sentence, clause or phrase.

(Ordinance adopting Code)

ARTICLE 1.200 FORM OF GOVERNMENT*

- (a) The provisions of Title 28 of the Revised Civil Statutes of Texas, 1925, relating to cities and towns, is hereby adopted and accepted.
- (b) The Town of San Felipe shall continue to be known as the Town of San Felipe, Texas.
- (c) The town secretary of the Town of San Felipe, be directed to enter this article upon the journal of minutes of the town council, and a copy of same signed by the mayor and

* State Law reference-Aldermanic form of government. V.T.C.A.. Local Government Code. Sec. 22.001. et seq.

attested by the secretary under the corporation seal, shall be filed and recorded in the office of the county clerk of Austin County, Texas.

(Ordinance 1984-6 adopted 11/13/84)

ARTICLE 1.300 NOTICE OF CLAIMS*

(a) The Town of San Felipe shall never be liable for any claim for property damage or for personal injury, whether such personal injury results in death or not, unless the person damaged or injured, or someone in his behalf, or in the event the injury results in death, the person or persons who may have a cause of action under the law by reason of such death injury, shall within sixty (60) days from the date the damage or injury was received give notice in writing to the mayor and town council of the following facts:

- (1) The date and time when the injury or damage occurred and the place where the injured person or property was at the time when the injury was received.
- (2) The nature of the damage or injury sustained.
- (3) The apparent extent of the damage or injury sustained.
- (4) A specific and detailed statement of how and under what circumstances the damage or injury occurred.
- (5) The amount for which each claimant will settle.
- (6) The actual place of residence of each claimant by street, number, city and state on the date the claim is presented.
- (7) In the case of personal injury or death, the names and addresses of all persons who, according to the knowledge or information of the claimant witnessed the happening of the injury or any part thereof and the names of the doctors, if any, to whose care the injured person is committed.
- (8) In the case of property damage, the location of the damaged property at the time the claim was submitted along with the names and addresses of all persons who witnessed the happening of the damage or any part thereof.

(b) No suit of any nature whatsoever shall be instituted or maintained against the Town of San Felipe unless the plaintiff therein shall aver and prove that previous to the filing of the original petition the plaintiff applied to the town council for redress, satisfaction,

* State Law reference-Texas Tort Claims Act. V.T.C.A., Civil Practice and Remedies Code. Sec. 101.023, et seq.

compensation, or relief, as the case may be, and that the same was by vote of the town council refused.

(c) All notices required by this article shall be effectuated by serving them upon the town secretary/treasurer at the following location: 4220 6th Street, and all such notices shall be effective only when actually received in the office of the person named above.

(d) Neither the mayor, town aldermen, nor any other officer or employee of the town shall have the authority to waive any of the provisions of this article.

(e) The written notice required under this article shall be sworn to by the person claiming the damage or injuries or by someone authorized by him to do so on his behalf. Failure to swear to the notice as required herein shall not render the notice fatally defective, but failure to so verify the notice may be considered by the town council as a factor relating to the truth of the allegations and to the weight to be given to the allegations contained therein.

(f) The notice provisions required herein shall not be applicable in cases in which the plaintiff can demonstrate good cause, actual notice by the city, or civil rights violations.

(Ordinance 1984-8 adopted 12/11/84; Ordinance adopting Code)

ARTICLE 1.400 TAXATION OF GAS AND ELECTRICITY*

The Town of San Felipe by majority vote of its governing body, hereby votes to retain the taxes authorized by the Local Sales and Use Tax Act (Article 1066c, Vernon's Texas Civil Statutes) on the receipts from the sale, production, distribution, lease, or rental of, and the use, storage, or other consumption of gas and electricity for residential use, as authorized by Section 6 of House Bill No. 1, Acts 1978, 1 65th Legislature, Second Called Session.

(Ordinance 1979-1 adopted 3/1/79)

ARTICLE 1.500 RECORDS MANAGEMENT†

Sec. 1.501 Definition of Municipal Records

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media,

* State Law reference-Authority of municipality to impose tax on sales of gas and electricity. V.T.C.A.. Tax Code. Sec. 321.103.

† State Law reference-Local Government Records Act. V.T.C.A.. Local Government Code, Chapter 201.

regardless of physical form or characteristic and regardless of whether public access to them is open or restricted under the laws of the state, created or received by the Town of San Felipe or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the Town of San Felipe and shall be created, maintained, and disposed of in accordance with the provisions of this article or procedures authorized by it and in no other manner.

Sec. 1.502 Additional Definitions

Department Head. Means the officer who by ordinance or administrative policy is in charge of an office of the Town of San Felipe that creates or receives records.

Essential Record. Means any record of the Town of San Felipe necessary to the resumption or continuation of its operations in an emergency or disaster, to the re-creation of its legal and financial status, or to the protection and fulfillment of obligations to the people of the state.

Permanent Record. Means any record of the Town of San Felipe for which the retention period on a records control schedule is given as permanent.

Records Control Schedule. Means a document prepared by or under the authority of the Records Management officer listing the records maintained by the Town of San Felipe, their retention periods, and other records disposition information that the records management program may require.

Records Management. Means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records Management Officer. Means the person designated in Section 1.505 of this article.

Records Management Plan. Means the plan developed under Section 1.506 of this article.

Retention Period. Means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Sec. 1.503 Municipal Records Declared Public Property

All municipal records as defined in Section 1.501 of this article are hereby declared to be the property of the Town of San Felipe. No municipal official or employee has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

Sec. 1.504 Policy

It is hereby declared to be the policy of the Town of San Felipe to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all municipal records through a comprehensive system of integrated procedures for their management from creation to ultimate disposition, consistent with the requirements of the Texas Local Government Records Act and accepted records management practice.

Sec. 1.505 Designation Of Records Management Officer

The town secretary, and the successive holders of said office, shall serve as records management officer for the Town of San Felipe. As provided by state law, each successive holder of the office shall file his or her name with the director and librarian of the Texas State Library within thirty days of the initial designation or of taking up the office, as applicable.

Sec. 1.506 Records Management Plan To Be Developed; Approval Of Plan; Authority Of Plan

(a) The records management officer shall develop a records management for the Town of San Felipe for submission to the town council. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of recordkeeping, to adequately protect the essential records of the municipality, and to properly preserve those records of the municipality that are of historical value. The plan must be designated to enable the records management officer to carry out his or her duties prescribed by state law and this article effectively.

(b) Once approved by the town council the records management plan shall be binding on all offices, departments, divisions, programs, commissions bureaus, boards, committees, or similar entities of the Town of San Felipe and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

(c) State law relating to the duties, other responsibilities, or recordkeeping requirements of a department head do not exempt the department head or the records in the department head's care from the application of this article and the records management plan adopted

under it and may not be used by the department head as a basis for refusal to participate in the records management program of the Town of San Felipe.

Sec. 1.507 Duties Of Records Management Officer

In addition to other duties assigned in this article, the records management officer shall:

- (1) administer the records management program and provide assistance to department heads in its implementation;
- (2) plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- (3) in cooperation with department heads identify essential records and establish a disaster plan for each municipal office and department to ensure maximum availability of the records in order to reestablish operations quickly and with minimum disruption and expense;
- (4) develop procedures to ensure the permanent preservation of the historically valuable records of the city;
- (5) establish standards for filing and storage equipment and for recordkeeping supplies;
- (6) study the feasibility of and, if appropriate, establish a uniform filing system and forms design and control system for the Town of San Felipe
- (7) monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and the municipality's records control schedules are in compliance with state regulations;
- (8) disseminate to the town council and department heads information concerning state laws and administrative rules relating to local government records;
- (9) ensure that the maintenance, preservation, microfilming, destruction, or other disposition of the records of the Town of San Felipe are carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- (10) maintain records on the volume of records destroyed under approved records control schedules or through records destruction authorization requests, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;

- (11) report annually to the town council on the implementation of the records management plan in each department of the Town of San Felipe, including summaries of the statistical and fiscal data compiled under subsection (10); and
- (12) bring to the attention of the town council non-compliance by department heads or other municipal personnel with the policies and procedures of the records management program or the Local Government Records Act.

Sec. 1.508 Duties And Responsibilities Of Department Heads

In addition to other duties assigned in this article, department heads shall:

- (1) cooperate with the records management officer in carrying out the policies and procedures established in the Town of San Felipe for the efficient and economical management of records and in carrying out the requirements of this article.
- (2) adequately document the transaction of government business and the services, programs, and duties for which the department head and his or her staff are responsible: and
- (3) maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of the Town of San Felipe and the requirements of this article.

Sec. 1.509 Records Control Schedules To Be Developed; Approval; Filing With State

(a) The records management officer, in cooperation with department heads, shall prepare records control schedules on a department by department basis listing all records series created or received by the department and the retention period for each series. Records control schedules shall also contain such other information regarding the disposition of municipal records as the records management plan may require.

(b) Each records control schedule shall be monitored and amended as needed by the records management officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state and that it continues to reflect the recordkeeping procedures and needs of the department and the records management program of the Town of San Felipe.

(c) Before its adoption a records a records control schedule or amended schedule for a department must be approved by the department head and the town council.

(d) Before its adoption a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The records management officer shall submit the records control schedules to the director and librarian.

Sec. 1.510 Implementation Of Records Control Schedules; Destruction Of Records Under Schedule

(a) A records control schedule for a department that has been approved and adopted under Section 1.509 shall be implemented by department heads according to the policies and procedures of the records management plan.

(b) A record whose retention period has expired on a records control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the record is pertinent to a pending law suit, or the department head requests in writing to the records management officer that the record be retained for an additional period.

(c) Prior to the destruction of a record under an approval records control schedule, authorization for the destruction must be obtained by the records management officer from the town council.

Sec. 1.511 Destruction Of Unscheduled Records

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the records management officer has submitted to and received back from the director and librarian an approved destruction authorization request.

(Ordinance 1994-5 adopted 9/13/94)

ARTICLE 1.600 EMERGENCY MANAGEMENT*

Sec. 1.601 Organization

(a) There exists the office of emergency management director of the City of San Felipe, which shall be held by the mayor in accordance with State law.

(b) An emergency management coordinator may be appointed by and serve at the pleasure of the director,

* State Law reference-Local and interjurisdictional emergency management, V.T.C.A., Government Code, ch. 418.

(c) The director shall be responsible for a program of comprehensive emergency management within the city and for carrying out the duties and responsibilities set forth in this article. He/she may delegate authority for execution of these duties to the coordinator, but ultimate responsibility for such execution shall remain with the director.

(d) The operational emergency management organization of the City of San Felipe shall consist of officers and employees of the city so designated by the director in the emergency management plan, as well as organized volunteer groups. The functions and duties of this organization shall be distributed among such officers and employees in accordance with the terms of the emergency management plan.

Sec. 1.602 Emergency Management Director- Powers And Duties

The duties and responsibilities of the emergency management director shall include the following:

- (1) Conduct an on-going survey of actual or potential hazards which threaten life and property within the city and an on-going program of identifying and requiring or recommending the implementation of measures which would tend to prevent the occurrence or reduce the impact of such hazards if a disaster did occur.
- (2) Supervision of the development and approval of an emergency management plan for the City of San Felipe, and shall recommend for adoption by the city council all mutual aid arrangements deemed necessary for the implementation of such plan.
- (3) Authority to declare a local state of disaster. The declaration may not be continued or renewed for a period in excess of 7 days except by or with the consent of the city council. Any order or proclamation declaring, continuing, or terminating a local state or disaster shall be given prompt and general publicity and shall be filed promptly with the city secretary.
- (4) Issuance of necessary proclamations, regulations, or directives which are necessary for carrying out the purposes of this article. Such proclamations, regulations, or directives shall be disseminated promptly by means calculated to bring its contents to the attention of the general public and, unless circumstances attendant on the disaster prevent or impede, promptly filed with the city secretary.
- (5) Direction and control of the operations of the San Felipe Emergency Management organization as well as the training of emergency management personnel.

- (6) Determination of all questions of authority and responsibility that may arise within the emergency management organization of the city.
- (7) Maintenance of liaison with other municipal, county, district, state, regional or federal emergency management organizations.
- (8) Marshaling of all necessary personnel, equipment, or supplies from any department of the city to aid in the carrying out of the provisions of the emergency management plan.
- (9) Supervision of the drafting and execution of mutual aid agreements, in cooperation with the representatives of the state and of other local political subdivisions of the state, and the drafting and execution, if deemed desirable, or an agreement with the county in which said city is located and with other municipalities within the county, for the county-wide coordination of emergency management efforts.
- (10) Supervision of, and final authorization for the procurement of all necessary supplies and equipment, including acceptance of private contributions which may be offered for the purpose of improving emergency management within the city.
- (11) Authorizing of agreements, after approval by the city attorney, for use of private property for public shelter and other purposes.
- (12) Survey of the availability of existing personnel, equipment, supplies, and services which could be used during a disaster, as provided for herein..
- (13) Other requirements as specified in the Texas Disaster Act of 1975, Vernon's Texas Codes Annotated, Government Code Chapter 418.

Sec. 1.603 Emergency Management Plan

A comprehensive emergency management plan shall be developed and maintained in a current state. The plan shall set forth the form of the organization; establish and designate divisions and functions, assign responsibilities, tasks, duties, and powers, and designate officers and employees to carry out the provisions of this article. As provided by state law, the plan shall follow the standards and criteria established by the State Division of Emergency Management of the State of Texas. Insofar as possible, the form of organization, titles, and terminology shall conform to the recommendations of the State Division of Emergency Management. When approved, it shall be the duty of all departments and agencies to perform the functions assigned by the plan and to maintain their portion of the plan in a current state or readiness at all times. The emergency management plan shall be considered supplementary to this article and have the effect of law during the time of a disaster.

Sec. 1.604 Interjurisdictional Program

The mayor is hereby authorized to join with the county judge of the County of Austin and the mayors of the other cities in said county in the formation of an interjurisdictional emergency management program for the County of Austin, and shall have the authority to cooperate in the preparation of an interjurisdictional emergency management plan and in the appointment of a joint emergency management coordinator, as well as all powers necessary to participate in a county-wide program of emergency management insofar as said program may affect the City of San Felipe.

Sec. 1.605 Override

At all times when the orders, rules, and regulations made and promulgated pursuant to this article shall be in effect, they shall supersede and override all existing ordinances, orders, rules, and regulations insofar as the latter may be inconsistent therewith.

Sec. 1.606 Liability

This article is an exercise by the city of its governmental function for the protection of the public peace, health, and safety and neither the City of San Felipe, the agents and representatives of said city, nor any individual, receiver, firm, partnership, corporation, association, or trustee, nor any of the agents thereof, in good faith carrying out, complying with or attempting to comply with, any order, rule, or regulation promulgated pursuant to the provisions of this article shall be liable for any damage sustained to persons as the result of said activity. Any person owning or controlling real estate or other premises who voluntarily and without compensation grants to the City of San Felipe a license of privilege, or otherwise permits the city to inspect, designate, and use the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, or practice enemy attack or natural or man-made disaster shall, together with his successors in interest, if any, not be civilly liable for the death of, or injury to, any person on or about such real estate or premises under such license, privilege or other permission or for loss of, or damage to, the property of such person.

Sec. 1.607 Commitment Of Funds

No person shall have the right to expend any public funds of the city in carrying out any emergency management activity authorized by this article without prior approval by the city council, nor shall any person have any right to bind the city by contract, agreement, or otherwise without prior and specific approval of the city council unless during a declared disaster. During a declared disaster, the mayor may expend and/or commit public funds of the city when deemed prudent and necessary for the protection of health, life, or property.

Sec. 1.608 Offenses; Penalties

(a) It shall be unlawful for any person willfully to obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any rule or regulation issued pursuant to this article.

(b) It shall likewise be unlawful for any person to wear, carry, or display any emblem, insignia, or any other means of identification as member of the emergency management organization of the City of San Felipe, unless authority to do so has been granted to such person by the proper officials.

(c) Any unauthorized person who shall operate a siren or other device so as to simulate a warning signal, or the termination of a warning, shall be deemed guilty of a violation of this article and shall be subject to the penalties imposed by this article.

(d) Convictions for violations of the provisions of this article shall be punishable by fine not to exceed one thousand dollars (\$1,000.00).

(Ordinance 1995-7 adopted 5/9/95)

ARTICLE 1.700 ACCESS TO LOWER PASTURE AREA

Sec. 1.701 General Rules

(a) Only residents of the Town of San Felipe shall have access to the Town of San Felipe Lower Pasture. Residents will be required to reside continuously in the Town of San Felipe for twelve (12) consecutive months immediately prior to the date of issuance of a key providing access to the Lower Pasture.

(b) Only said residents shall be able to obtain keys that provide access to the Town of San Felipe Lower Pasture and only after specific authorization by the town council. The resident shall request a key from the person appointed by the mayor and town council of the town to control access to the Town of San Felipe Lower Pasture. Whereupon, the resident shall sign the license agreement, a copy of which is attached hereto marked "Exhibit "A" and incorporated herein for all purposes. This executed license agreement shall be kept on file by the Town of San Felipe, Texas. The spouse of the resident and any other adults who permanently reside in the home of the resident may have access to the Town of San Felipe Lower Pasture only if and when they sign the license agreement which has been executed previously by the resident. Only one key per household will be issued. Minor children of the authorized resident and any non-resident guests must be under escort of the authorized resident at all times while upon the Town of San Felipe Lower Pasture. The authorized resident is responsible for the actions of his/her family and guests while upon the Town of San Felipe Lower Pasture. Temporary, limited access to

the Town of San Felipe Lower Pasture may be granted by the town council of San Felipe to non-residents for special events on specified dates and of a fixed duration.

(c) Upon vacating or abandoning residence within the Town of San Felipe, the license agreement shall be automatically revoked and the authorized resident shall return the key providing access to the Lower Pasture to the person appointed to control access to the Town of San Felipe Lower Pasture. The key providing access to the Lower Pasture shall be returned within ten (10) days of the date said residence is vacated or abandoned by the authorized resident.

(d) The license agreement and access key are not transferable or assignable.

(e) There shall be no shooting of rifles or hand guns at anytime on the Town of San Felipe Lower Pasture.

(f) There shall be no destruction, damage or removal of any fences, vegetation or other tangible property within the Town of San Felipe Lower Pasture.

(g) Only San Felipe residents will be allowed to use a shotgun or bow and arrow for hunting. Guests of San Felipe residents will not be allowed to hunt anything at any time in the San Felipe Lower Pasture.

(h) It shall be a violation of this article for any person who has not executed a License Agreement with the Town of San Felipe to go upon the Town of San Felipe Lower Pasture. The property will be patrolled and monitored at all times.

Sec. 1.702 Violations

(a) It shall be a violation to have a duplicate key providing access to the Lower Pasture made for any other person. It shall also be a violation for a resident to lend his key providing access to the Lower Pasture to another person except his spouse and any other adults who permanently reside in the home of the resident who has signed the license agreement previously executed by the resident.

(b) It shall be a violation to hunt with a rifle, hand gun, spear or any other implement other than a shotgun or bow and arrow which is customarily used for hunting, or to shoot a rifle or hand gun at any time of the Town of San Felipe Lower Pasture.

(c) It shall be a violation to remove wood from the Town of San Felipe Lower Pasture for the purpose of sale as firewood. Deadwood to be used as firewood for personal use is allowed.

(d) It shall be a violation for any person to mutilate, injure, destroy or remove any live trees, with the exception of huisache.

(e) It shall be a violation for any person to remove sand or gravel from the Town of San Felipe Lower Pasture without prior approval of a designated location by the town council of the Town of San Felipe.

(f) It shall be a violation of this article for any person to construct any vehicle roadway without prior authorization from the town council of the Town of San Felipe.

(g) The hunting, shooting, maiming or killing of antlerless deer (does) is strictly prohibited in the Town of San Felipe Lower Pasture.

Sec. 1.703 Littering Prohibited

It shall be the duty and responsibility of the residents who have executed a license agreement and have a key providing access to the Lower Pasture in their possession to keep the access gate to the Town of San Felipe Lower Pasture locked at all times and to maintain the property and keep it clear. Littering on the Lower Pasture is strictly prohibited. In addition, anyone convicted of the littering of glass in any form will be subject to a fine as provided for in the general penalty provision found in Section 1.106 of this code.

Sec. 1.704 Nonliability of City

Any person entering onto the Town of San Felipe Lower Pasture, whether authorized or not, shall hold harmless and indemnify the Town of San Felipe for any accident, loss or injury occurring while the said person is on the Town of San Felipe Lower Pasture.

Sec. 1.705 Use of Vehicles

The misuse of motor vehicles on the Lower Pasture is strictly prohibited. The term "misuse" in this context shall mean: driving any vehicle on the property in excess of ten (10) miles an hour; recklessly driving any vehicle so as to damage the land or any personal property thereon; driving the vehicle so as to endanger the lives of the driver, the occupants or any person or wildlife on the land.

Sec. 1.706 Definitions

(a) The term "resident" means one who permanently resides within the municipal corporate limits of the Town of San Felipe, Texas.

(b) The term "Authorized Resident" means a resident who has signed the License Agreement for the privilege of access to the Town of San Felipe Lower Pasture.

(c) The term "Town of San Felipe Lower Pasture" designates the 600 plus acres of land which are owned by the Town of San Felipe under its charter and which borders on and has access to the Brazos River. This land is also known as the corporate bottomland.

(d) The term "antlerless deer" refers to female deer (does) on the Town of San Felipe Lower Pasture.

Sec. 1.707 Penalties for Violations

Any person who violates any section of this article shall be prosecuted, and upon final conviction, be fined as provided for in the general penalty provision found in Section 1.106 of this code, the offense being a Class "C" Misdemeanor. Also the privilege of access to the Town of San Felipe Lower Pasture shall be revoked for a period of one (1) year, the key providing access to the Lower Pasture rescinded, and appropriate notation of the revocation of privilege of access made on the License Agreement.

Sec. 1.708 Changing of Lock

The town council of the Town of San Felipe has the right to change the lock on the access gate to the Lower Pasture as often as deemed necessary and issue new keys at a reasonable rate.

(Ordinance 1997-2 adopted 4/8/97)

ARTICLE 1.800 LARGE PASTURE LICENSE AGREEMENT

Sec. 1.801 Authorization

The town council hereby adopts the license agreement attached and incorporated by reference for use in the rental of the Large Pasture Area.

Sec. 1.802 Application

Applicants for a license for use of the Large Pasture Area must do the following:

- (1) Notify the town secretary of the date the individual/group wishes to use the premises no later than 30 days prior to the event date.
- (2) Return completed license agreement with the necessary proof of insurance, deposit, and license fee no later than 2 weeks prior to the event date.

(Ordinance 1995-9 adopted 8/8/95)

CHAPTER 2

ANIMAL CONTROL

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ARTICLE 2.100 GENERAL ANIMAL CONTROL REGULATIONS*

Sec. 2.101 Purpose

The primary function and intent of this article is protection of the health, safety and welfare of the citizens of the Town of San Felipe, Texas, by establishing uniform rules for the control and eradication of rabies.

Sec. 2.102 Definitions

For the purposes of this article, the following words, terms, or phrases shall have the meanings ascribed thereto:

Animal Control Officer. Means any person appointed by the town council of San Felipe to perform such duties as required by this article and/or state law.

Bite. Means puncturing, tearing, or bruising of the skin by an dog's teeth.

Confined or Confinement. Means a dog shall be confined within a building or home, or within a mechanical or visible fenced yard or premises built to contain the dog and also to keep anyone from entering into the dog's area, so that the dog cannot escape from said building, house, or fenced yard or premises without human assistance.

Dog. Means canine familiaris.

Dangerous. Vicious Dogs. If any dog bites or attempts to bite any person or chases or otherwise attempts to catch a person or attacks or attempts to attack any other animal while such dog is at-large, then such dog shall be conclusively presumed to be a dangerous, vicious dog and a dog of dangerous and vicious propensities and tendencies.

Owner. Means any person owning, keeping or harboring one or more dogs. A dog shall deemed to be harbored if it is fed, sheltered, or allowed or permitted to remain on a person's property without said person notifying the Town of San Felipe Animal Control Officer.

Person. Means any individual, partnership, corporation, firm, association, trust or estate.

Provocation. Means any purposeful act that causes a dog to bite, scratch, or attack in protection of self, owner, or owner's premises. Entrance, in any manner, into an area where a dog is properly under restraint in compliance with town ordinances would be considered provocation, irrespective of the reason for such entrance.

* State Law reference—Authority of governing body to regulate animals. V.T.C.A., Local Government Code. Sec. 215.001. et seq.

Running at Large. Means a dog that is not under the control of the owner, or that of a person or persons authorized by the owner to care for said dog, either by cord, leash, chain, or confinement.

Sick Dog. Means any dog that appears to be suffering from an infectious, contagious, or communicable disease; or that shows evidence of a physical injury, physical disorder, or traumatic injury; or that has an elevated temperature.

Stray. Means a dog either not on its owner's property or, not under leash control of its owner, and without a collar and tag as required by Section 2.104 herein.

Vaccination. Means a proper injection of a rabies vaccine licensed for use in dogs by the United States Department of Agriculture or the Texas Department of Health.

Sec. 2.103 Animal Control Officer

The San Felipe Town Council shall appoint an animal control officer to enforce all provisions of this article, including gathering up and impounding or quarantining or humanely euthanizing any dog found in violation of this article.

(Ordinance 1993-3 adopted 3/30/93)

Sec. 2.104 Rabies Vaccination Required*

(a) Every owner shall have his/her dog or cat vaccinated against rabies by the time the dog is four (4) months of age. Said rabies vaccine shall be administered by a duly licensed veterinarian. The immunization shall be for a period of up to one (1) year, but in no event shall any owner fail to keep any such dog or cat immunized during such animal's lifetime.

(b) The owner shall secure, from the veterinarian who vaccinates the owner's animal(s), a certificate of vaccination containing the following information:

- (1) The owner's name, address and telephone number.
- (2) The animal's species, sex, age, predominant breed, color, and approximate weight.
- (3) Vaccine used, producer, expiration date and serial number.
- (4) Date vaccinated.

* State Law reference—Authority of municipality to establish rabies control program. V.T.C.A. Health & Safety Code, Sec. 826.015.

- (5) Rabies tag number, which shall be entered upon receipt of the tag.
- (6) Veterinarian's signature and license number.

(Ordinance 1993-3 adopted 3/30/93; Ordinance adopting Code)

Sec. 2.105 Verification of Vaccination

- (a) Every owner shall affix a collar securely around the neck of such owner's dog or cat, and shall attach thereto a metal tag engraved with the name, address and phone number of the owner, and a metal rabies tag engraved to show compliance with the vaccination requirements of Section 2.104 above.
- (b) Stray dogs are prohibited.

Sec. 2.106 Public Nuisance

- (a) No owner shall fail to exercise proper care and control of his dog and the premises where said dogs are kept to prevent them from becoming a public nuisance.
- (b) Any dog or dogs that unreasonably annoy humans, endanger the life or health of other animals or persons, or substantially interfere with the rights of citizens, other than their owners, to enjoyment of life or property. The term "public nuisance dog" shall mean and include, but is not limited to, any dog that:
 - (1) Overturns garbage containers or scatters garbage in anyway;
 - (2) Damages the property of anyone other than its owners;
 - (3) Molests or intimidates pedestrians or passersby;
 - (4) Chases vehicles;
 - (5) Excessively and repeatedly makes unprovoked disturbing noises, including, but not limited to, continued and repeated howling, barking, whining, or other utterances causing unreasonable annoyance, disturbance, or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
 - (6) Causes fouling of the air by odor and thereby creates unreasonable annoyance or discomfort to neighbors or others in close proximity to the premises where the animal is kept or harbored;
 - (7) Causes unsanitary conditions in enclosures or surroundings where the animal is kept or harbored:

- (8) Is offensive or dangerous to the public health, safety or welfare by virtue of the number and/or types of animals maintained; or
- (9) Attacks other domestic animals; or
- (10) Is a vicious dog.

(Ordinance 1993-3 adopted 3/30/93)

Sec. 2.107 Keeping of Dogs

It shall be unlawful for any person to own, keep, or harbor more than five (5) dogs over four (4) months of age at any one address or location within the town limits of San Felipe. Exceptions to this restriction shall be made for lawfully operating kennels and/or groomers operating in the town. (Ordinance 1993-3 adopted 3/30/93; Ordinance adopting Code)

Sec. 2.108 Running At-Large Prohibited

No owner or keeper of any dog shall permit or allow such dog to run at large within the town limits of the Town of San Felipe.

Sec. 2.109 Restraint

(a) No owner shall fail to exercise proper care and control of his dog(s) to prevent them from becoming a public nuisance.

(b) Any dog within the town that shall bite, scratch, or otherwise attack a person who is not at the time trespassing upon the property of the owner or person having control of such dog, nor provoking or teasing such dog, shall be deemed vicious or dangerous to persons or other animals, and the Town of San Felipe may order that such dog be kept within a sufficient enclosure, or that such dog be permanently removed from the corporate limits of the Town of San Felipe, or that such dog be delivered to the animal control officer to be humanely euthanized.

Sec. 2.110 Report of Dog Attacks

Any person having knowledge of a dog bite or scratch or other attack on an individual or of an dog that the person suspects is rabid, shall report the incident or dog to the animal control officer or the San Felipe Police Department. The report shall include the name and address of any victim and of the owner of the dog, if known, and any other data which may aid in the locating of the victim or the dog. The person shall make said report as soon as possible, but not later than twenty-four (24) hours from the time of the incident.

Sec. 2.111 Releasing or Dumping of Dogs

It shall be a violation of this article for any person(s) to dump, release or abandon any dog, on any property, whether public or private, within the Town of San Felipe Town Limits.

Sec. 2.112 Bitches in Heat

It shall be a violation of this article to allow or permit any bitch dog, while in heat, to run at-large and such bitches in heat shall be securely confined to the premises of the owner in such a manner as shall not create or cause to be created a nuisance of any kind to any person or persons.

Sec. 2.113 Notice of Impounding

As soon as possible after any dog has been delivered to or picked up by the animal control officer of his representative, it shall be his duty to post or enter a record of each dog, describing each dog, whether bearing a rabies vaccination tag or not, and giving the number of the rabies tag. In case the dog bears a rabies vaccination tag, the animal control officer shall contact the veterinarian listed on the tag to obtain the name and address of the owner of the dog. The animal control officer may, but is not obligated, to notify the person to whom the veterinarian lists as the owner. The owner may be notified in person, by letter, postal card, telephone, or other written notice. The owner shall be deemed notified upon mailing of said letter or postal card or leaving written notice whether the dog of the animal received the notice or not.

Sec. 2.114 Release of Impounded Dogs

If an impounded dog is found to be free from rabies or other infectious or contagious diseases, the animal control officer shall release it to the owner if:

- (1) the owner pays the impoundment and boarding fees as listed in Section 2.117(g), for each dog that may be impounded.
- (2) the owner redeems his dog within the seventy-two (72) hours after their capture and impoundment; and
- (3) the owner has an unexpired rabies vaccination certificate for the dog.

Sec. 2.115 Authority to Slay Dogs Posing a Risk

The animal control officer or his designated agent is authorized to slay a dog in the performance of his duties under this article when, in his judgment, such a dog poses a risk

to his life or safety or to another person's life or safety or a risk to the life or safety of another animal.

Sec. 2.116 Keeping of Records

The animal control officer shall keep complete records of the care, feeding, veterinary treatment, and disposition of all dogs impounded. Such dog may, if deemed necessary, be slain by any authorized law enforcement officer or animal control officer.

Sec. 2.117 Impoundment and Fees

(a) Unvaccinated dogs, vicious dogs, and nuisance dogs may be taken by the animal control officers, or law enforcement officers and impounded in an animal shelter and there confined in a humane manner. Any dog that poses a threat to public health and safety, or any dog that has been cruelly treated or abused may be impounded. For purposes of discharging the duties imposed by the provisions of this chapter or other applicable laws, and to enforce the same, the animal control officer or any law enforcement officer may enter upon private property to the full extent permitted by law, which shall include, but not be limited to, entry upon private, unfenced property when in pursuit of any dog which he/she has reason to believe is subject to impoundment pursuant to the provisions of this chapter or other applicable laws.

(b) Any impounded dogs shall be kept for not less than 72 hours unless claimed by owner.

(c) Sick or injured dogs wearing no apparent identification through which ownership can be determined may be euthanized at the discretion of the animal control officer and animal shelter staff after consultation with a licensed veterinarian prior to the expiration of the 72 hour holding period.

(d) No sick impounded dog shall be released to the owner until the animal control officer shall be satisfied that arrangements have been made for proper treatment of the sick dog.

(e) Any dog not reclaimed by its owner within 72 hours shall become the property of the Town of San Felipe or humane society and shall be placed for adoption in a suitable home or humanely euthanized. The adoption fee shall be as provided for in the fee schedule found in the appendix of this code.

(f) Any owner claiming an impounded dog shall pay a fee to the Town of San Felipe prior to the release of said dog. Said fee shall be established from time to time by the board of aldermen.

(g) The impoundment and boarding fees as provided for in the fee schedule found in the appendix of this code must be paid for each animal impounded.

Sec. 2.118 Disposal of Carcasses

Carcasses of all dogs shall be deposited in such place and in such manner as may be designated or prescribed for such purpose by the animal control officer. The carcasses of all dogs shall be properly disposed of in accordance with the provisions of this article as soon as possible, but under no circumstances not later than 24 hours after death.

Sec. 2.119 Enforcement

The provisions of this article shall be enforced by the animal control officer or any police officer. It shall be a violation of this article to interfere with the animal control officer or any police officer in the performance of his duties.

Sec. 2.120 Effective Date

This article shall be in full force and effect from and after its passage and its publication as provided by law, except for the prohibition of dogs running-at-large which shall be in full force and effect thirty (30) days from and after its passage and its publication as provided by law. Publication shall be by caption only.

Sec. 2.121 Penalty

Any person violating any provision of this article or who shall fail to comply with any requirement hereof, shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1993-3 adopted 3/30/93)

ARTICLE 2.200 LIVESTOCK AT LARGE*

(a) Any person owning or having responsibility for the control of any horse, mule, donkey, cow, bull, steer, hog, sheep or goat, who knowingly permits such animal to traverse or roam at large, unattended, within the corporate limits of the Corporation of San Felipe De Austin, shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.

(b) If more than one such animal is permitted to roam at large in violation of this article, a separate complaint shall be filed for each animal.

* State Law reference—Authority of municipality to prohibit or otherwise regulate the keeping of livestock and swine. V.T.C.A., Local Government Code, Sec. 215.026(b).

(c) Each day that an animal is permitted to roam at large in violation of this article shall constitute a separate and distinct offense.

(Ordinance adopted 6/1/65)

ARTICLE 2.300 DANGEROUS DOGS*

Sec. 2.301 Dangerous Dogs

The animal control officer may receive a complaint from any police officer, humane officer, or citizen concerning an animal which he/she has reason to believe has a dangerous disposition. The animal must make an unprovoked attack causing bodily injury on a person, and such attack or threat of attack must occur in a place other than the enclosed area where the dog is kept, or threatens a person in a place other than where the dog is kept. The threat must suggest real danger of being bitten. The animal control officer shall investigate the incident. If in the event the animal is found to be a "dangerous dog" as defined in this article, the animal control officer shall:

- (1) Notify the owner, keeper of said animal by certified letter that his or her dog has been deemed "dangerous" and that the dog owner shall have thirty (30) days to appeal the decision through the municipal court judge.
- (2) The animal control officer shall decide the location of where the animal shall be held during the thirty days.

Sec. 2.302 Requirements for Owner of Dangerous Dog

(a) Not later than the 30th day after a person learns that the person is the owner of a dangerous dog, the person shall;

- (1) Register the dangerous dog with the animal control officer;
- (2) Restrain the dangerous dog at all times on a leash in the immediate control of a person or in a secure enclosure; and
- (3) Obtain liability insurance coverage or show financial responsibility in an amount of at least \$100,000.00 to cover damages resulting from an attack by the dangerous dog causing bodily injury to a person.

* State Law reference—Authority of municipality to regulate the keeping of dangerous dogs. V.T.C.A., Health & Safety Code, Chapter 822, Subchapter D.

(b) The owner of a dangerous dog who does not comply with subsection (a) shall deliver the dog to the animal control officer not later than the 30th day after the owner learns that the dog is a dangerous dog.

Sec. 2.303 Registration of Dangerous Dog

(a) The animal control officer shall register a dangerous dog if the owner:

(1) Presents proof of:

(A) liability insurance or financial responsibility, as required by Section 2.302 of this article;

(B) current city license and current rabies vaccination of the dangerous dog; and

(C) the secure enclosure in which a dangerous dog will be kept; and

(2) Pays an annual registration fee as provided for in the fee schedule found in the appendix of this code.

(b) The animal control officer shall provide to the owner of the dangerous dog a registration collar (bright orange with dangerous dog printed on the material), and two signs warning the public of the dangerous dogs. The owner must keep this collar on the dangerous dog at all times, and place the signs in a conspicuous place on the enclosure of where the dangerous dog is kept.

(c) If an owner of the dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control officer for the area in which the new address is located. On presentation by the current owner of the dog's prior registration tag or collar, payment of a fee as provided for in the fee schedule found in the appendix of this code, and proof of insurance or financial responsibility the animal control authority shall issue a new registration collar to be placed on the dangerous dog and two new signs to be placed on the enclosure where the dangerous dog is kept.

(d) Every owner of a registered dangerous dog shall notify the animal control officer of any attacks the dangerous dog makes on people.

Sec. 2.304 Attack by Dangerous Dog

(a) A person commits an offense if the person is the owner of a dangerous dog and the dog makes an unprovoked attack on another person outside the dog's enclosure and causes bodily injury to the person.

(b) An offense under this article is a Class C misdemeanor, unless the attack causes serious bodily injury or death, in which event the offense is a Class A misdemeanor, the person may be subject to other criminal prosecution under the laws of the State of Texas in a court of competent jurisdiction.

(c) If a person is found guilty of an offense under this article, the court may order the dangerous dog destroyed by the animal control officer.

(d) In addition to criminal prosecution, a person who commits an offense under this article is liable for a civil penalty as provided for in the general penalty provision found in Section 1.106 of this code. The town attorney may file suit court of competent jurisdiction to collect the penalty. Penalties collected under this article shall be retained by the Town of San Felipe.

Sec. 2.305 Violations

(a) A person who keeps custody or control of a dangerous dog commits an offense if the person fails to comply with Section 2.302 of this article.

(b) An offense under this article is a Class C misdemeanor.

Sec. 2.306 Defense

It is a defense to prosecution under Section 2.304 or Section 2.305 of this article if:

- (1) The person is a veterinarian, a peace officer, a person employed by a recognized animal shelter, or a person employed by the state or a political subdivision of the state to deal with stray animals and has temporary ownership, custody, or control of the dog in connection with that position; or
- (2) The person is an employee of the institutional division of the Texas Department of Criminal Justice or a law enforcement agency and trains or uses dogs for law enforcement or corrections purposes; or
- (3) The person is a dog trainer or an employee of a guard dog company under the Private Investigators and Private Securities Agencies Act (Article 4413 (29bb), Vernon's Texas Civil Statutes).

(Ordinance adopting Code)

CHAPTER 3

BUILDING & CONSTRUCTION

Article 3.100:	Standard Codes	3-3
Article 3.200:	Building Permit Requirements	3-3
Article 3.300:	Flood Damage Prevention	3-5

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ARTICLE 3.100 STANDARD CODES

(a) Be it ordained by the Board of Alderman of the Municipal Corporation of the Town of San Felipe de Austin:

- (1) That the 1997 Southern Standard Building Code be adopted;
- (2) That the 1997 Southern Standard Housing Code be adopted;
- (3) That the 1997 National Electrical Code be adopted.

(b) The penalty for the violation of any of the provisions of any of the respective codes shall be enforced as provided therein.

(c) The full text of each of said codes be incorporated by reference herein with the originals of such code maintained in the city hall.

(Ordinance 1976-2 adopted 5/2/76; Ordinance adopting Code)

ARTICLE 3.200 BUILDING PERMIT REQUIREMENTS

(a) A building permit shall be issued by the Town of San Felipe, Texas, only after the Town Building Permit Official has determined that the proposed building site is reasonably safe from flooding, or if flood hazard exists, any proposed new construction or substantial improvement (including prefabricated and mobile homes) must:

- (1) be designed (or modified) and anchored to prevent flotation, collapse, or lateral movement of the structure; slabs will be required equal to or greater than the size of the home on the new application.

DEFINITION: Slabs - All mobile homes moved into the city limits of San Felipe after the passage of this article shall be provided with four inch (4") reinforced concrete slabs the same size or larger than the mobile home placed on said lot.

- (2) use construction materials and utility equipment that are resistant to flood damage, and skirting will be required on all mobile homes.

DEFINITION: Skirting - All mobile homes shall have installed within thirty (30) days from the time said mobile home is moved on said lot, skirts of metal, brick or masonry construction extending from the slab to the lower frame of said mobile home. In the event that mobile homes are located in the city prior to the passage of this article without slabs, skirts of metal, brick or

masonry construction shall be installed extending from the ground surface to the lower frame of said mobile home in the event there is no slab.

- (3) use construction methods and practices that will minimize flood damage.
- (b) No person, firm, corporation, partnership, association or any other legal entity shall construct or cause to be constructed any structure of substantial improvement to any structure (residential, industrial, commercial or otherwise) without first obtaining a permit to construct same from Town Building Permit Official of the Town of San Felipe, Texas, which said office is hereby created and shall be filled by appointment of Mayor and approval of Council.
- (c) Proposed subdivision and land use areas shall be reviewed to assure that (1) all proposals for construction provide for methods to minimize flood damage, (2) all public utilities and facilities such as sewage, gas, electric service and water systems are located and constructed to minimize or eliminate flood damage and (3) adequate drainage is provided for so as to reduce exposure to flood hazards.
- (d) All new or replacement water supply systems and/or sanitary sewage system shall be designed to minimize or eliminate infiltration of flood waters into the systems, and discharge from the systems into the flood waters.
- (e) Whoever undertakes construction of a structure without first obtaining a permit as provided for herein shall be guilty of a misdemeanor and, upon conviction, shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.
- (f) All existing mobile homes and any new construction must obtain a permit.
- (g) There will be a fee as provided for in the fee schedule found in the appendix of this code for a grandfathered permit for all mobile homes in place (5/4/99) and the resident(s) will be given within 30 days to comply. If the citizens do not obtain a grandfathered permit, they will be subject to new fees and requirements.
- (h) New construction permit fees will be as provided for in the fee schedule found in the appendix of this code.
- (i) A fine in accordance with the general penalty provision found in Section 1.106 of this code will be assessed by the town for noncompliance, with provisions for levy and liens on the property for non-payment of fine(s).
- (j) Mobile homes manufactured prior to June 15, 1976 will not be moved into the community. This will not affect existing homes. There will be a prohibition use of any recreational vehicle, used for living quarters. Also the town will inform citizens of the charges, through the GAZETTE and The Sealy News.

(Ordinance 1999-3 adopted 5/4/99)

ARTICLE 3.300 FLOOD DAMAGE PREVENTION*

Sec. 3.301 Statutory Authorization

The Legislature of the State of Texas has delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the Town Council of the Town of San Felipe, Texas, does ordain as follows:

Sec. 3.302 Findings of Fact

(a) The Zone A flood hazard areas of San Felipe, Texas are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the public 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 hazards areas by uses vulnerable to floods and hazardous to other lands because they are inadequately elevated, floodproofed or otherwise protected from flood damage.

Sec. 3.303 Statement of Purpose

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

- (1) Protect human life and health;
- (2) Minimize expenditure of public money for costly flood control projects;
- (3) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) Minimize prolonged business interruptions;
- (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 stable property values by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood blight areas; and

* State Law reference—Responsibility to establish flood hazard regulations, V.T.C.A. Water Code, Sec. 15.316.

- (7) Insure that potential buyers are notified that property is in a flood area.

Sec. 3.304 Methods Of Reducing Flood Losses

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

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

Sec. 3.305 Definitions

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

Appeal. Means a request for a review of the flood plain administrator's interpretation of any provision of this article or a request for a variance.

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 ratemaking has been completed in preparation for publication of the FIRM, Zone A unusually is refined into Zones A, AE, AH, AO, A1-99, 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.

Critical Feature. Means an integral and readily identifiable part of a flood protection system, without which the flood protection provided by the entire system would be compromised.

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

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

Existing Construction. Means for the purpose of determining rates, structures for which the start of construction commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date. Existing construction may also be referred to as existing structures.

Flood or Flooding. 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 Hazard Boundary Map (FHBM). Means an official map of a community on which the Federal Emergency Management Agency has delineated the boundaries of the flood, mudslide (i.e., mudflow) related erosion areas having special hazards have been designated as Zone A, M, and/or E.

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

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 areas within a community subject to a special flood hazard and the extent of the depths of associated flooding. Such as 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.

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

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

Lowest Floor. Means the lowest floor of the lowest enclosed area including basement). An unfinished or flood resistant enclosure, usable solely for parking or vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirement of 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. For flood plain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term manufactured home does not include park trailers, travel trailers, and other similar vehicles.

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 flood plain management purposes, structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by a community.

Start of Construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), included substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, 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 form; nor does it

include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

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

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

Variance. Is a grant of relief to a person from the requirements of this article when specific enforcement would result in unnecessary hardship. A variance, therefore, permits construction or development in a manner otherwise prohibited by this article. (For full requirements see Section 60.6 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 flood plain 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 flood plains of coastal or riverine areas.

Sec. 3.306 Lands To Which This Article Applies

This article shall apply to all areas of special flood hazard with the jurisdiction of the Town of San Felipe, Texas.

Sec. 3.307 Basis for Establishing the Areas of Special Flood Hazard

The areas of special flood hazard identified by the Federal Emergency Management Agency on its Flood Hazard Boundary Map (FHBM), Community No. 480705, dated October 22, 1976, and any revisions thereto are hereby adopted by reference and declared to be a part of this article.

Sec. 3.308 Establishment of Development Permit

A development permit shall be required to ensure conformance with the provisions of this article.

Sec. 3.309 Compliance

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

Sec. 3.310 Abrogation and Greater Restrictions

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

Sec. 3.311 Interpretation

In the interpretation and application of this article, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 3.312 Warning and Disclaimer or Liability

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. On rare occasions greater floods can and will occur and flood heights may be increased by man-made or natural cases. This article does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This article shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

Sec. 3.314 Designation of the Floodplain Administrator

The mayor of the Town of San Felipe is hereby appointed the floodplain administrator to administer and implement the provisions of this article and other appropriate sections of 44 CFF (National Flood Insurance Program Regulations) pertaining to flood plain management.

Sec. 3.315 Duties and Responsibilities of the Floodplain Administrator

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

- (1) Maintain and hold open for public inspection all records pertaining to the provisions of this article.
- (2) Review permit application to determine whether proposed building site will be reasonable safe from flooding.
- (3) Review, approve or deny all applications for development permits required by adoption of this article.
- (4) Review permits for proposed development to assure that all necessary permits have been obtained from those federal, state or local governmental agencies (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334) from which prior approval is required.
- (5) Where interpretation is needed as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between 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 Department of Water Resources, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (7) Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.
- (8) When base flood elevation data has not been provided in accordance with Section 3.307, 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 Section 3.318-3.320.

Sec. 3.316 Permit Procedures

(a) Application for a development permit shall be presented to the floodplain administrator on forms furnished by him/her and may include, but not be limited to, plans in duplicate drawn to scale showing the location, dimensions, and elevation of proposed landscape alterations, existing and proposed structures, and the location of the foregoing in relations 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 Section 3.319(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 Section 3.315(1).
- (b) Approval or denial of a development permit by the floodplain administrator shall be based on all of the provisions of this article and the following relevant factors:
- (1) The danger to life and property due to flooding or erosion damage;
 - (2) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (3) The danger that materials may be swept onto other lands to the injury of others;
 - (4) The compatibility of the proposed use with existing and anticipated development;
 - (5) The safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (6) The costs of providing governmental services during and after flood conditions including maintenance and repair of streets and bridges, and public utilities and facilities such as sewer, gas, electrical and water systems;
 - (7) The expected heights, velocity, duration, rate or rise and sediment transport of flood waters and the effects of wave action, if applicable, expected at the site;
 - (8) The necessity to the facility of a waterfront location, where applicable;
 - (9) The availability of alternative locations, not subject to flooding or erosion damage, for the proposed use;
 - (10) The relationship of the proposed use to the comprehensive plan for that area.

Sec. 3.317 Variance Procedures

(a) The town council hereby established itself as an appeal board, and render judgment on requests for variances from the requirements of this article.

(b) The town council shall hear and render judgment on an appeal only when it is alleged there is an error in any requirement, decision, or determination made by the floodplain administrator in the enforcement or administration of this article.

(c) Any person or persons aggrieved by the decision of the town council may appeal such decision in the courts of competent jurisdiction.

(d) The floodplain administrator shall maintain a record of all actions involving an appeal and shall report variances to the Federal Emergency Management Agency upon request.

(e) Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, without regard to the procedures set forth in the remainder of this article.

(f) Variances may be issued for new construction and substantial improvements to be erected on a lot of 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 Section 3.316(b) of this article 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 article, the town council may attach such conditions to the granting of variances as it deems necessary to further the purpose and objectives of this article.

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

(i) Perquisites 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. (i) showing a good and sufficient cause; (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense. create nuisances, cause

fraud on or victimization of the public, or conflict with existing local laws or ordinances.

- (3) Any application to whom a variance is granted shall be given written notice that the structure will be permitted to be built with the lowest floor elevation below the base flood elevation, and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(j) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of functionally dependent use provided that (1) the criteria outlined in subsection (i) 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.

Sec. 3.318 General Standards For Flood Hazard Reduction

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

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

- (7) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

Sec. 3.319 Specific Standards for Flood Hazard Reduction

In all areas of special flood hazards where base flood elevation data has been provided as set forth in (i) Section 3.307, (ii) Section 3.315(8), or (iii) Section 3.320, the following provisions are required:

- (1) Residential Construction - new construction and substantial improvement Or any residential structure shall have the lowest floor (including basement), elevated to or above the base flood elevation. A registered professional engineer, architect, or land surveyor shall submit a certification to the floodplain administrator that the standard of this subsection as proposed in Section 3.316(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 and structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. A registered professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice as outlined in this subsection. A record of such certification which includes the specific elevation (in relations to mean sea level) to which such structures are floodproofed shall be maintained by the floodplain administrator.
- (3) Manufactured Homes
 - (A) Require that all manufactured homes to be placed within Zone A, shall be installed using methods and practices which minimize flood damage. For the purpose of this requirement, manufactured homes must be elevated and anchored to resist flotation, coilapse. or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
 - (B) All manufactured homes shall be in compliance with subsection (a).

Sec. 3.320 Standards For Subdivision Proposals

- (a) All subdivision proposals including manufactured home parks and subdivisions shall be consistent with Sections 3.302, 3.303, and 3.304 of this article.
- (b) All proposals for the development of subdivisions including manufactured home parks and subdivisions shall meet development permit requirements of Section 3.308; Section 3.316; and the provisions of Section 3.318 through 3.320 of this article.
- (c) Base flood elevation data shall be generated for subdivision proposals and other proposed development including manufactured home parks and subdivisions which is greater than 50 lots or 5 acres, whichever is lesser, if not otherwise provided pursuant to Section 3.307 or Section 3.315(8) of this article.
- (d) All subdivision proposals including manufactured home parks and subdivisions shall have adequate drainage provided to reduce exposure to flood hazards.
- (e) All subdivision proposals including manufactured home parks and subdivisions shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage.

(Ordinance 1988-1 adopted 1/12/88)

Sec. 3.321 Penalty for Violations

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this article and other applicable regulations. Violation of the provisions of this article 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 article or fails to comply with any of its requirements shall upon conviction thereof be fined in accordance with the general penalty provision found in Section 1.106 of this code. (Ordinance adopting Code)

CHAPTER 4

BUSINESS & COMMERCE

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ARTICLE 4.100 ALCOHOLIC BEVERAGE SALES*

It shall be unlawful for any person, firm or corporation to sell beer and/or other intoxicating liquors within the city limits of the incorporative Town of San Felipe, Texas, and any person, firm or corporation convicted of violating this article by selling beer and/or other intoxicating liquors within the city limits of the incorporative Town of San Felipe, Texas, shall be assessed a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance adopted 11/6/54)

ARTICLE 4.200 PEDDLERS AND SOLICITORS†

Sec. 4.201 Definitions

When used in this article the following words shall have the meanings respectively ascribed to them by this section:

Solicitor. Shall mean any person, whether a resident of the Town of San Felipe or not, including an employee or agent of another, traveling either by foot, automobile, truck, or some other type of conveyance, who engages in the practice of going door-to-door, house-to-house, or along any street within the Town of San Felipe:

- (1) Selling or taking orders for or offering to sell or take orders for goods, merchandise, wares, or other items of value for further delivery, or services to be performed in the future, for commercial purposes; or
- (2) Requesting contribution of funds, property, or anything of value, or the pledge of any type of future donation, or selling or offering for sale any type of property, including but not limited to goods, tickets, books, and pamphlets, for political, charitable, religious, or other noncommercial purposes.

Solicitation Activities. Shall mean the practices of solicitors as listed in Section 4.201(1) and (2) of this section.

Solicitation Transaction. Means a transaction or the purchase of goods or services, payable in installments or cash, in which the solicitor engages in a personal solicitation of a sale to a person at a residence. A solicitation transaction shall not include a sale made pursuant to a pre-existing retail charge agreement, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods of services are offered or exhibited for sale; or a sale of realty in which transaction

* State Law reference—Regulation of alcoholic beverages, generally, V.T.C.A., Alcoholic Beverage Code.

† State Law reference—Authority of municipality to regulate peddlers, hawkers and solicitors, V.T.C.A., Local Government Code, Sec. 215.031.

the purchaser is represented by a licensed attorney or in which the transaction is being negotiated by a licensed real estate broker.

Itinerant Merchant. Means a person who sets up and operates a temporary business within the premises of another business or any other building or location in the Town of San Felipe, soliciting, selling, or taking orders for, or offering to sell or take orders for any goods or services.

Code Enforcement Officer. Means the person appointed by the town council of San Felipe to enforce its ordinances or his designees.

Residence. Means any separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.

Goods or Merchandise. Means any property of value, or commodities of commerce that can be bought or sold, or wares of any nature.

Interstate Commerce. Means soliciting, selling or taking orders for any goods, wares, merchandise, photographs, newspapers or magazines which, at the time the order is taken are in another state or will be produced in another state and shipped or introduced into this town in the fulfillment of such orders.

Person. Means the singular and plural and shall also mean and include any person, firm, corporation, association, partnership or co-partnership.

Town. Means the Town of San Felipe, Texas.

Sec. 4.202 License Application

Any person who wishes to engage in home solicitation or any itinerant merchant who wishes to solicit within the town shall file a written application with the police chief or his designee. Said application shall state:

- (1) Proof of the identity and home address of the application and the name and address of the employer, firm, association, organization, corporation, partnership or co-partnership which such applicant represents; and
- (2) A brief description of the nature, character and quality of the goods to be sold; and
- (3) If a motor vehicle is to be used, a description of the vehicle together with the motor vehicle registration number and the license plate number; and
- (4) A description of the proposed location(s) of the solicitation; and

- (5) The period of time the applicant so wishes to solicit, sell or take orders in the town; and
- (6) The names of other communities in which the applicant has worked as a solicitor in the past twelve (12) months; and if he was employed by a different company in those communities, and the name of those companies; and
- (7) Whether the applicant has been convicted within the last five (5) years for burglary, theft, fraud, robbery or rape; and
- (8) Proof of sales tax permit issued by the State of Texas or proof that the goods sold are not subject to such sales tax; and
- (9) An itinerant merchant who makes application to offer his goods for sale upon private property shall provide written proof that he has permission to use such property from the owner, or the owner's agent; and
- (10) Each application shall be accompanied by a fee as required under the current fee schedule and no permit shall be issued until such fee has been paid; and
- (11) A license requested under this article shall be issued for the length of time requested, not to exceed twelve (12) months; and
- (12) Upon expiration of a permit, the solicitor or itinerant merchant may apply for a new permit.

Sec. 4.203 License

- (a) License Required: It shall be unlawful for any person to engage in the business of solicitor or itinerant merchant as defined in this article within the corporate limits of the Town of San Felipe without first obtaining a license therefor as provided herein. It shall also be unlawful to sell or solicit as herein defined without carrying such license while engaged in such activity.
- (b) The license shall be used only by the person to whom it was issued and may not be transferred to any other person.
- (c) It shall be unlawful for any person soliciting to fail or refuse to display such license upon the request of any person demanding the same.

Sec. 4.204 Regulations

- (a) The following regulations apply to solicitors engaged in solicitation activities in the Town of San Felipe.

(b) Every person who shall comply with this article and shall sell, or offer for sale, any of the articles as herein specified, shall at all times keep the same in a clean and sanitary condition, and shall also keep in their wagons, vehicles or other conveyances in a clean and sanitary condition, and they shall not sell or offer for sale, any unwholesome articles, nor shall they give or make any false weights or measures of any of the various articles as specified and covered by this article.

(c) It shall be unlawful for any person selling or soliciting orders for goods, wares, merchandise, services, magazines, or newspapers or subscriptions to magazines or newspapers, except as herein provided, to go in or upon the premises of a private residence in the Town of San Felipe unless requested or invited to do so by the owner or occupant of the said residence for the purpose of selling or disposing of or peddling same, and shall leave the premises upon request.

(d) No person shall engage in business as a solicitor in defiance of any notice exhibited by a residence or business indicating that solicitors are not welcome or not invited:

(1) A person, desiring that no merchant or other person engage in home solicitation at his residence, shall exhibit in a conspicuous place upon or near the main entrance to the residence, a weatherproof card, not less than two inches by four inches in size, containing the words, "NO SOLICITORS." The letters shall be not less than two-thirds of an inch in height.

(2) Every solicitor upon going onto any premises upon which a residence is located shall first examine the residence to determine if any notice prohibiting solicitation is exhibited. The solicitor shall immediately depart from the premises without disturbing the occupant, unless the visit is the result of a request made by the occupant.

(e) No solicitor, nor any person in his behalf, shall shout, make any cryout, blow a horn, ring a bell or use any sound device, including any sound amplifying system or loud speaking radio upon any of the streets, alleys, parks or other public places of the Town of San Felipe or upon any private premises in the said town where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the streets, avenues, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such licensee proposes to sell.

(f) No solicitor shall have any exclusive right to any location in the public streets or rights of way, or alleys, nor shall he be permitted to operate in any congested area where his operations might impede or inconvenience the public. For the purpose of this article, the judgment of a police officer, exercised in good faith, shall be prima facie evidence as to whether the area is congested or the public impeded or inconvenienced.

(g) A person shall not go upon any residential premises and ring the doorbell, or rap or knock upon the door, or create any sound in a manner calculated to attract the attention of

the occupant of the residence for the purpose of engaging in or attempting to engage in a home solicitation transaction:

- (1) Before 9:00 a.m. or after 8:00 p.m. of any day Monday through Saturday; or
- (2) At any time on a Sunday, New Year's Day, July 4th, Labor Day, Thanksgiving Day or Christmas Day.

(h) Section 4.204(g) shall not apply to a visit to the premises as a result of a request or an appointment made by the occupant.

(i) It shall be unlawful for any person to solicit on property owned by the Town of San Felipe unless such person has entered into an agreement with the town council.

Sec. 4.205 Suspension of License

(a) Any license issued under this article may be suspended for any of the following reasons:

- (1) Fraud or misrepresentation in the application for a license;
- (2) Fraud or misrepresentation in the course of conducting solicitation activities;
- (3) Conducting solicitation activities contrary to the conditions of this license;
- (4) Conducting solicitation activities in such a manner as to create a public nuisance or constitute a danger to the public health, safety or welfare.

(b) Upon suspension of a license, the Town of San Felipe shall deliver written notice to the license holder stating that action taken and the reasons supporting such action. The written notice shall be delivered to the license holder's place of business or mailed to the license holder's last known address.

Sec. 4.206 Appeals

Persons who are denied licenses or whose licenses have been suspended, may appeal by filing a written notice of appeal with the city secretary. The appeal must be filed within ten (10) days after receipt of the notice of denial or suspension. The town council shall hear and determine the appeal at the next scheduled meeting of the council, and the decision of the council shall be final.

Sec. 4.207 Renewals

Licenses may be renewed, provided an application for renewal and license fees as required under the current fee schedule are received by the town no later than the

expiration date of the current license. Applications received after that date shall be processed new applications. The town shall review each application for renewal to determine that the applicant is in full compliance with the provisions of this article. If the town finds that the application meets such requirements, the town shall issue a new license.

Sec. 4.208 Duty of Chief of Police

(a) It shall be the duty of police chief to require any person seen soliciting, and who is not known by such officer to be duly licensed, to produce his license and to enforce the provisions of this article against any person found to be violating the same.

(b) It shall be the duty of the police chief to issue such applicant a permit to engage in the solicitation activities set forth in the applicant's application within five (5) working days of the receipt of a completed application and prescribed fee unless it has been determined that the application is incomplete, contains false information or the person has been convicted. If the application contains false information or the person has been convicted, the police chief shall not issue the permit.

(c) Any person aggrieved by the action of the police chief in the denial of an application for a permit shall have the right to appeal.

Sec. 4.209 Exemptions

(a) Exemptions from License: The provisions of this article shall not apply to:

- (1) Sales made to dealers by commercial travelers or sales agents in the usual course of business, calling upon or dealing with manufacturers, wholesalers, distributors or retailers at their place of business; or
- (2) Insurance salesman, real estate salesman and others licensed by the State of Texas;
- (3) The sale of newspapers as that term is defined by state law;
- (4) Sales made to dealers by commercial travelers or sales agents in the usual course of business, calling upon or dealing with manufacturers, wholesalers, distributors or retailers at their place of business; or
- (5) Minors under the age of seventeen (17), unless they are acting as agents of adults covered by this article.

(b) Exemptions from License Fee. The following persons and/or organizations are exempt from the payment of a licensing fee. but are required to obtain a license and comply with all ordinance regulations:

- (1) Persons engaged in charitable, educational or religious purposes, and the person exhibits, at the time of solicitation, documentation in writing which identifies him as a representative of the charitable, educational, or religious organization for whom he is soliciting, or
- (2) Persons engaged in interstate commerce: providing the person has proper documents of identification.

Sec. 4.210 Penalty

Any person violating any of the provisions of this article shall, upon conviction, be fined as provided for in the general penalty provision found in Section 1.106 of this code; and each and every day that the provisions of this article are violated shall constitute a separate and distinct offense. This penalty is in addition to and cumulative of any other remedies as may be available at law and equity.

(Ordinance adopting Code)

ARTICLE 4.300 GARAGE SALE REGULATIONS

Sec. 4.301 Garage Sale Defined

Garage sales are hereby defined as occasional sales of household goods or used merchandise conducted in an area zoned for residential uses by the owner or occupant of the residence at which the sale is conducted and which is not an ongoing or regular business activity.

Sec. 4.302 Conduct Limited

- (a) A garage sale shall not be conducted on any residential lot or tract in the city on more than five (5) consecutive calendar days or two (2) consecutive weekends.
- (b) A garage sale shall not be conducted on any residential lot or tract in the city on more than ten (10) calendar days in any twelve (12) month period.

Sec. 4.303 Penalty

Any garage sale held in violation of this article shall be prohibited and violations shall be punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code per violation per day.

(Ordinance adopting Code)

ARTICLE 4.400 SEXUALLY ORIENTED BUSINESSES*

Sec. 4.401 Purpose and Intent

It is the purpose of this article to regulate sexually-oriented businesses to promote the health, safety, morals, and general welfare of the citizens of the town, and to establish reasonable and uniform regulations to prevent the concentration of sexually oriented businesses within the town. The provisions of this article have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent nor effect of this article to restrict or deny access by adults to sexually-oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually-oriented entertainment to their intended market.

Sec. 4.402 Definitions

In this article:

Adult Arcade. Means any place to which the public is permitted or invited wherein coin-operated or slug operated or electronically, electrically, or mechanically-controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

Adult Bookstore or Adult Video Store. Means a commercial establishment which as one of its principal business purposes offers for sale or rental for any form of consideration any one or more of the following:

- (1) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions, slides, or other visual representations which depict or describe "specified sexual activities" or "specified anatomical areas"; or
- (2) Instruments, devices, or paraphernalia which are designed for use in connection with "specified sexual activities."

Adult Cabaret. Means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

- (1) Persons who appear in a state of nudity; or

* State Law reference--Authority of municipality to regulate sexually oriented businesses. V.T.C.A., Local Government Code, ch. 243.

- (2) Live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or
- (3) Films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specific anatomical areas".

Adult Motel. Means a hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides persons with closed circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions; or
- (2) Offers a sleeping room for rent for a period of time that is less than 10 hours; or
- (3) Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

Adult Theater. Means a theater, concert hall, auditorium, or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities."

Adult Motion Picture Theater. Means a commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions are regularly shown which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

Chief of Police. Means the chief of police of the Town of San Felipe or his designated agent.

Church or Place of Religious Worship. Means a building in which persons regularly assemble for worship, intended primarily for purposes connected with faith, or for propagating a particular form of belief.

Escort. Means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

Escort Agency. Means a person or business association who furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes, for a fee, tip, or other consideration.

Establishment. Means and includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually-oriented business, to any sexually-oriented business;
- (3) The addition of any sexually-oriented business to any other existing sexually-oriented business; or
- (4) The relocation of any sexually-oriented business.

Licensee. Means a person in whose name a license to operate a sexually-oriented business has been issued, as well as the individual listed as an applicant on the application for a license.

Nude Model Studio. Means any place where a person who appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

Operates or Causes to be Operated. Mean to cause to function or to put or keep in operation. A person may be found to be operating or causing to be operated a sexually-oriented business whether or not that person is an owner, part owner, or licensee of the business.

Nudity or a State of Nudity. Means:

- (1) The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast; or
- (2) A state of dress which fails to opaquely cover a human buttock, anus, male genitals, female genitals, or areola of the female breast.

Person. Means an individual, proprietorship, partnership, corporation, association, or other legal entity.

Public Park. Means a tract of land maintained by the federal, state or a local government for the recreation and enjoyment of the general public.

Residential District or Use. Means use as a single-family, duplex, patio home, town house, multi-family or mobile home park and mobile home subdivision.

Semi-Nude. Means a state of dress in which clothing covers no more than the genitals, pubic region, and areola of the female breast, as well as portions of the body covered by supporting straps or devices.

Sexual Encounter Center. Means a business or commercial enterprise that, as one of its primary business purposes, offers for any form of consideration:

- (1) Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
- (2) Activities between male and female persons and or persons of the same sex when one or more of the persons is in a state of nudity or semi-nude.

Sexually-Oriented Business. Means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio, sexual encounter center or other commercial enterprise the primary business of which is the offering of a service or the selling, renting, or exhibiting of devices or any other items intended to provide sexual stimulation or sexual gratification to the customer.

Specified Anatomical Areas. Means human genitals in a state of sexual arousal.

Specified Sexual Activities. Means and includes any of the following:

- (1) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated; or
- (4) Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

Substantial Enlargement of a Sexually-Oriented Business. Means the increase in floor area occupied by the business by more than 25 percent, as the floor area exists on the date of passage of this article.

Transfer of Ownership or Control of a Sexually-Oriented Business. Means and includes any of the following:

- (1) The sale, lease, or sublease of the business;
- (2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or
- (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

Sec. 4.403 Classification

Sexually-oriented businesses are classified as follows:

- (1) Adult arcades;
- (2) Adult bookstores or adult video stores;
- (3) Adult cabarets;
- (4) Adult motels;
- (5) Adult motion picture theaters;
- (6) Adult theaters;
- (7) Escort agencies;
- (8) Nude model studios; and
- (9) Sexual encounter centers.

Sec. 4.404 License Required

(a) A person commits an offense if he operates a sexually oriented business without a valid license, issued by the town for the particular type of business.

(b) An application for a license must be made on a form provided by the chief of police. The application must be accompanied by a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions or the interior of the premises to an accuracy of plus or minus six inches. Applicants who must comply with Section 4.417 of this article shall submit a diagram meeting the requirements of Section 4.417.

- (c) The applicant must be qualified according to the provisions of this article.
- (d) If a person who wishes to operate a sexually-oriented business is an individual, he must sign the application for a license as applicant. If a person who wishes to operate a sexually-oriented business is other than an individual, each individual who has a 20 percent or greater interest in the business must sign the application for a license as applicant. Each applicant must be qualified under Section 4.405 and each applicant shall be considered a licensee if a license is granted.
- (e) The fact that a person possesses a valid theater license, dance hall license, or public house or amusement license does not exempt him from the requirement of obtaining a sexually-oriented business license. A person who operates a sexually-oriented business and possesses a theater license, public house of amusement license or dance hall license shall comply with the requirements and provisions of this article as well as the requirements and provisions of the town's zoning ordinance, or any other ordinance that may be applicable.

Sec. 4.405 Issuance of License

- (a) The chief of police shall issue a license to an applicant within 30 days after receipt of an application unless the chief of police finds one or more of the following to be true:
 - (1) An applicant under 18 years of age.
 - (2) An applicant or an applicant's spouse is overdue in payment to the city of taxes, fees, fines, or penalties assessed against the applicant or the applicant's spouse in relation to a sexually oriented business.
 - (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
 - (4) An applicant or an applicant's spouse has been convicted of a violation of a provision of this article, other than the offense of operating a sexually-oriented business without a license, within two years immediately preceding the application. The fact that a conviction is being appealed shall have no effect.
 - (5) The license fee required by this article has not been paid.
 - (6) An applicant has been employed in a sexually oriented business in a managerial capacity within the preceding twelve months and has demonstrated an inability to operate or manage a sexually oriented business premise in a peaceful and law abiding manner, thus necessitating action by law enforcement officers.

- (7) An applicant or the proposed establishment is in violation of or is not in compliance with Sections 4.407, 4.412, 4.413, 4.414, 4.415, 4.416, 4.417, and 4.418 of this article.

- (8) An applicant or an applicant's spouse has been convicted of a crime.
 - (A) involving any of the following offenses as described in Chapter 43 of the Texas Penal Code:
 - (i) prostitution;
 - (ii) promotion of prostitution;
 - (iii) aggravated promotion of prostitution;
 - (iv) compelling prostitution;
 - (v) obscenity;
 - (vi) sale, distribution, or display of harmful material to a minor;
 - (vii) sexual performance by a child;
 - (viii) possession of child pornography.

 - (B) Any of the following offenses as described in Chapter 21 of the Texas Penal Code:
 - (i) public lewdness;
 - (ii) indecent exposure;
 - (iii) indecency with a child.

 - (C) Sexual assault or aggravated sexual assault as described in Chapter 22 of the Texas Penal Code:

 - (D) Incest, solicitation of a child, or harboring a runaway child as described in Chapter 25 of the Texas Penal Code; or

 - (E) Criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses:

for which:

- (A) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;
- (B) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense: or
- (C) less than five years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction, whichever is the later date, if the convictions are of two or more misdemeanor offenses or combination of misdemeanor offenses occurring within any 24-month period.
- (D) The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
- (E) An applicant who has been convicted or whose spouse has been convicted of an offense listed in Section 4.405(a)(8) may qualify for a sexually-oriented business license only when the time period required by Section 4.405(a)(8)(A)(v) has elapsed.

(b) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the sexually oriented business. The license shall be posted in a conspicuous place at or near the entrance to the sexually-oriented business so that it may be easily read at any time.

Sec. 4.406 Fees

The annual fee for a sexually-oriented business license is as provided for in the fee schedule found in the appendix of this code.

Sec. 4.407 Inspection

(a) An applicant or licensee shall permit representatives of the police department, health department, fire department, housing and neighborhood services department, and building inspection division to inspect the premises of a sexually-oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business.

(b) A person who operates a sexually-oriented business or his agent or employee commits an offense if he refuses to permit a lawful inspection of the premises by a representative of the police department at any time it is occupied or open for business.

(c) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

Sec. 4.408 Expiration of License

Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in Section 4.404. Application for renewal should be made at least 30 days before the expiration date, and when made less than 30 days before the expiration date, the expiration of the license will not be affected.

Sec. 4.409 Suspension

The chief of police shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an employee of a licensee has:

- (1) violated or is not in compliance with Sections 4.407, 4.412, 4.413, 4.414, 4.415, 4.416, and 4.417;
- (2) engaged in excessive use of alcoholic beverages while on sexually-oriented business premises;
- (3) refused to allow an inspection of the sexually oriented business premises as authorized by this article;
- (4) knowingly permitted gambling by any person on the sexually-oriented business premises;
- (5) demonstrated inability to operate or manage a sexually-oriented business in a peaceful and law-abiding manner, thus necessitating action by law enforcement officers.

Sec. 4.410 Revocation

(a) The chief of police shall revoke a license if a cause of suspension in Section 4.409 occurs and the license has been suspended within the preceding 12 months.

(b) The chief of police shall revoke a license if he determines that:

- (1) A licensee gave false or misleading information in the material submitted to the chief of police during the application process;
- (2) A licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;

- (3) A licensee or an employee has knowingly allowed prostitution on the premises;
 - (4) A licensee or an employee knowingly operated the sexually-oriented business during a period of time when the licensee's license was suspended;
 - (5) A licensee has been convicted of an offense listed in Section 4.405(a)(8) for which the time period required in Section 4.405(a)(8)(A)(v) has not elapsed;
 - (6) On two or more occasions within a 12-month period, a person or persons committed an offense occurring in or on the licensed premises of a crime listed in Section 4.405(a)(8)(A), for which a conviction has been obtained, and the person or persons were employees of the sexually-oriented business at the time the offenses were committed; or
 - (7) A licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in or on the licensed premises. The term "sexual contact" shall have the same meaning as it is defined in Section 21.01, Texas Penal Code; or
- (c) The fact that a conviction is being appealed shall have no effect on the revocation of the license.
- (d) Section 4.410(b) does not apply to adult motels as a ground for revoking the license unless the licensee or employee knowingly allowed the act of sexual intercourse, sodomy, oral copulation, masturbation, or sexual contact to occur in a public place or within public view.
- (e) When the chief of police revokes a license, the revocation shall continue for one year and the licensee shall not be issued to a sexually-oriented business license for one year from the date revocation became effective. If, subsequent to revocation, the chief of police finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective. If the license was revoked under Section 4.410(b), an applicant may not be granted another license until the appropriate number of years required under Section 4.405(a)(8)(A)(v) has elapsed.

Sec. 4.411 Appeal

If the chief of police denies the issuance of a license, or suspends or revokes a license, the chief of police shall send to the applicant, or licensee, by certified mail, return receipt requested, written notice of the action and the right to an appeal. Upon receipt of written notice of the denial, suspension, or revocation, the licensee whose application for a license has been denied or whose license has been suspended or revoked shall have the right to appeal to the state district court. An appeal to the state district court must be filed

within 30 days after the receipt of notice of the decision of the chief of police. The licensee shall bear the burden of proof in court.

Sec. 4.412 Transfer of License

A licensee shall not transfer his license to another, nor shall a licensee operate a sexually-oriented business under the authority of a license at any place other than the address designated in the application.

Sec. 4.413 Additional Regulations for Escort Agencies

- (a) An escort agency shall not employ any person under the age of 18 years.
- (b) A person commits an offense if he acts as an escort or agrees to act as an escort for any person under the age of 18 years.

Sec. 4.414 Additional Regulations for Nude Model Studios

- (a) A nude model studio shall not employ any person under the age of 18 years.
- (b) A person under the age of 18 years commits an offense if he appears in a state of nudity in or on the premises of a nude model studio. It is a defense to prosecution under this subsection if the person under 18 years was in a rest room not open to public view or persons of the opposite sex.
- (c) A person commits an offense if he appears in a state of nudity or knowingly allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right-of-way.
- (d) A nude model studio shall not place or permit a bed, sofa, or mattress in any room on the premises, except that a sofa may be placed in a reception room open to the public.

Sec. 4.415 Additional Regulations for Adult Theaters and Adult Motion Picture Theaters

- (a) A person commits an offense if he knowingly allows a person under the age of 18 years in a state of nudity in or on the premises of an adult theater or adult motion picture theater.
- (b) A person under the age of 18 years commits an offense if he knowingly appears in a state of nudity in or on the premises of an adult theater or adult motion picture theater.
- (c) It is a defense to prosecution, under subsections (a) and (b) of this section if the person under 18 years was in a rest room not open to public view or persons of the opposite sex.

Sec. 4.416 Additional Regulations for Adult Motels

(a) Evidence that a sleeping room in a hotel, motel, or similar commercial establishment has been rented and vacated two or more times in a period of time that is less than 10 hours creates a rebuttable presumption that the establishment is an adult motel as that term is defined in this article.

(b) A person commits an offense if, as the person in control of a sleeping room in a hotel, motel, or similar commercial establishment that does not have a sexually-oriented business license, he rents or subrents a sleeping room to a person and, within 10 hours from the time the room is rented, he rents or subrents the same sleeping room again.

(c) For purposes of subsection (b) of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

Sec. 4.417 Regulations Pertaining to Exhibition of Sexually Explicit Films or Videos

(a) A person who operates or causes to be operated a sexually-oriented business, other than which exhibits on the premises in a viewing room or less than 150 square feet of floor space, a film, video cassette, or other video reproduction which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

- (1) Upon application for a sexually-oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed 32 square feet of floor area. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to any accuracy of plus or minus six inches. The chief of police may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.
- (2) The application shall be sworn to be true and correct by the applicant.

- (3) No alteration in the configuration or location of a manager's station may be made without the prior approval of the chief of police or his designee.
 - (4) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and situated in each manager's station at all times that any patron is present inside the premises.
 - (5) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of every area of the premises to which any patron is permitted access for any purpose excluding rest rooms. Rest rooms may not contain video reproduction equipment. If the premises has two or more manager's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the manager's stations. The view required in this subsection must be by direct line of sight from the manager's station.
 - (6) It shall be the duty of the owners and operator, and it shall also be the duty of any agents and employees present in the premises to ensure that the view area specified in subsection (a) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times that any patron is present in the premises and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to subsection (a)(1) of this section.
 - (7) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than one (1.0) foot-candle as measured at the floor level.
 - (8) It shall be the duty of the owners and operator and it shall also be the duty of any agents and employees present in the premises to ensure that the illumination described above, is maintained at all times that any patron is present in the premises.
- (b) A person having a duty under subsections (1) through (8) of subsection (a) above commits an offense if he knowingly fails to fulfill that duty.

Sec. 4.418 Display of Sexually Explicit Material to Minors

- (a) A person commits an offense if, in a business establishment open to persons under the age of 17 years, he displays a book, pamphlet, newspaper, magazine, film, or video cassette, the cover of which depicts, in a manner calculated to arouse sexual lust or

passion for commercial gain or to exploit sexual lust or perversion for commercial gain. any of the following:

- (1) Human sexual intercourse, masturbation, or sodomy;
- (2) Fondling or other erotic touching of human genitals, pubic region, buttocks, or female breasts;
- (3) Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; or
- (4) Human male genitals in a discernibly turgid state, whether covered or uncovered.

(b) In this section “display” means to locate an item in such a manner that, without obtaining assistance from an employee of the business establishment:

- (1) It is available to the general public for handling and inspection; or
- (2) The cover or outside packaging on the item is visible to members of the general public.

Sec. 4.419 Location of Sexually Oriented Businesses

(a) A person commits an offense if he operates or causes to be operated a sexually oriented business within 1,000 feet of:

- (1) A church or place of religious worship;
- (2) A public or private elementary or secondary school;
- (3) A Child care facility;
- (4) A boundary of residential district as defined in this section;
- (5) A public park;
- (6) The property line of a lot devoted to a residential use as defined in this article;
or

(b) A person commits an offense if he causes or permits the operation, establishment, substantial enlargement, or transfer of ownership or control of a sexually oriented business within 1,000 feet of another sexually oriented business.

(c) A person commits an offense if he causes or permits the operation, establishment, or maintenance of more than one sexually oriented business in the same building, structure, or portion thereof, or the increase of floor area of any sexually oriented business in any building, structure, or portion thereof containing another sexually oriented business.

(d) For the purposes of subsection (b) of this section, the distance between any two sexually oriented businesses shall be measured in a straight line, without regard to intervening structures or objects, from the closest exterior wall of the structure in which each business is located.

(e) Any sexually oriented business lawfully operating that is in violation of subsections (a), (b), and (c) of this section shall be deemed a nonconforming use. Such use will be permitted to continue for a period of not to exceed one year, unless sooner terminated for any such reason or voluntarily nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a nonconforming use. If two or more sexually oriented businesses are within 1,000 feet of one another and otherwise in a permissible location, the sexually oriented business which was first established and continually operating at a particular location is the conforming use and the later-established business(es) is nonconforming.

(f) A sexually oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the sexually oriented business license, of a church or place of religious worship, public or private elementary or secondary school, public park, residential district, or residential lot within 1,000 feet of the sexually oriented business. This provision applies only to the renewal of a valid license, and does not apply when an application for a license is submitted after a license has expired or has been revoked.

(g) All locational requirements of this section must be approved by the chief of police within thirty (30) days from the time the application is filed.

Sec. 4.420 Exemption from Location Restrictions

(a) If the chief of police denies the issuance of a license to an applicant because the location of the sexually oriented business establishment is in violation of Section 4.419 of this article, then the applicant may, not later than 10 calendar days after receiving notice of the denial, file with the city secretary a written request for an exemption from the locational restrictions of Section 4.419.

(b) If the written request is filed with the city secretary within the 10 day limit, the town council shall consider the request. The city secretary shall set a date for the hearing within 30 days from the date the written request is received.

(c) The town council shall hear and consider evidence offered by any interested person. The formal rules of evidence do not apply.

(d) The town council may, in its discretion, grant an exemption from the locational restrictions of Section 4.419 if it makes the following findings:

- (1) that the location of the proposed sexually oriented business will not have a detrimental effect on nearby properties or be contrary to the public safety or welfare;
- (2) that the granting of the exemption will not violate the spirit and intent of this section of the ordinance;
- (3) that the location of the proposed sexually oriented business will not downgrade the property values or quality of life in the adjacent areas or encourage the development of urban blight;
- (4) that the location of an additional sexually oriented business in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any efforts of urban renewal or restoration; and

(e) The council grant or deny the exemption by a majority vote. Failure to reach a majority vote shall result in denial of the exemption. Disputes of fact shall be decided on the basis of a preponderance of the evidence. The decision of this board is final.

(f) If the town council grants the exemption, the exemption is valid for one year from the date of the council's action. Upon the expiration of an exemption, the sexually oriented business in violation of the locational restrictions of Section 4.419 until the applicant applies for and receives another exemption.

(g) If the council denies the exemption, the applicant may not re-apply for an exemption until at least twelve (12)-months have elapsed since the date of the council's action.

(h) The grant of an exemption does not exempt the applicant from any other provisions of this article other than the locational restrictions.

Sec. 4.421 Defenses

(a) It is a defense to prosecution under Section 4.404(a) or Section 4.414(d) that a person appearing in a state of nudity did so in a modeling class operated:

- (1) By a proprietary school licensed by the State of Texas; a college, junior college, or university supported entirely or partly by taxation; or

- (2) By a private college or university which maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation; or,
- (3) In a structure:
 - (A) Which has no sign visible from the exterior of the structure and no other advertising that indicates a nude person is available for viewing; and
 - (B) Where in order to participate in a class a student must enroll at least three days in advance of the class; and
 - (C) Where no more than one nude model is on the premises at any one time.

(b) It is a defense to prosecution under Section 4.404(a) that each item of descriptive, printed, film, or video material offered for sale or rental, taken as a whole, contains serious literary, artistic, political, or scientific value.

Sec. 4.422 Injunction

A person who operates or causes to be operated a sexually-oriented business without a valid license shall be in violation of this article and is subject to a suit for injunction as well as prosecution for criminal violations.

Sec. 4.423 Penalty

Any person, firm or corporation violating any of the provisions of this article shall, upon conviction, be fined as provided for in the general penalty provision found in Section 1.106 of this code and each day and every day that the provisions of this article are violated shall constitute a separate and distinct offense.

(Ordinance adopting Code)

CHAPTER 5

FIRE PROTECTION

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ARTICLE 5.100 FIRE PREVENTION REGULATIONS

Sec. 5.101 Office Created

The office of fire marshal is hereby created. Such office shall be independent of other town departments, the fire marshal reporting directly to the mayor and town council. Such office shall be filled by appointment by the mayor, by and with the consent of the town council, within thirty (30) days after this article shall take effect. (Ordinance 1987-2 adopted 7/14/87; Ordinance adopting Code)

Sec. 5.102 Fires Investigated; Records Kept

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

Sec. 5.103 Formal Hearings Held

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

Sec. 5.104 Power To Summon Witnesses

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

(b) The said fire marshal is hereby authorized and empowered to administer oaths and affirmations to any persons appearing as witnesses before him.

Sec. 5.105 Decorum At Hearings

Any witness who refuses to be sworn, or who refuses to appear or testify, or who disobeys any lawful order of said fire marshal, or who fails or refuses to produce any book, paper or document touching any matter under examination, or who is guilty of any contemptuous conduct during any of the proceedings of the fire marshal in the matter of said investigation or inquiry, after being summoned to give testimony in relation of any matter under investigation as aforesaid, shall be deemed guilty of a misdemeanor; and it shall be the duty of the fire marshal to cause all such offenders to be prosecuted. Any person being convicted of any such demeanor shall be fined in accordance with the general penalty provision found in Section 1.106 of this code. Provided, however, that any person so convicted shall have the right of appeal.

Sec. 5.106 Hearings May Be Private

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

Sec. 5.107 Investigation Authorized

The fire marshal shall have the authority at all times of day or night, when necessary, in the performance of the duties imposed upon him by the provisions of this article, to enter upon and examine any building or premises where any fire has occurred, and other buildings and premises adjoining or near the same, which authority shall be exercised only with reason and good discretion.

Sec. 5.108 Periodic Business Examinations; Hazards Corrected

The fire marshal, upon complaint of any person having an interest in any building or property adjacent and without any complaint, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within the town, and it shall be his duty, monthly or more often, to enter upon and make or cause to be entered and made, a thorough examination of all mercantile, manufacturing and public buildings, together with the premises belonging thereto. Whenever he shall find any building or other structure which, for want of repair, or by reason of age or dilapidated condition, or for any cause, is especially liable to fire, and which is so situated as to endanger other buildings or property, or so occupied that fire would endanger persons or property therein, and whenever he shall find an improper or dangerous arrangement of stoves, ranges, furnaces or other heating appliances of any kind whatsoever, including chimneys, flues, and pipes with which the same may be connected, or a dangerous arrangement of lighting devices or systems, or a dangerous or unlawful storage of explosives, compounds, petroleum, gasoline, kerosene, dangerous chemicals,

vegetable products, ashes, combustible, inflammable and refuse materials, or other conditions which may be dangerous in character or liable to cause or promote fire or create conditions dangerous to the firemen or occupants, he shall order the same to be removed or remedied, and such order shall be forthwith complied with by the owner or occupant of said building or premises. Provided, however, that if said owner or occupant deems himself aggrieved by such order, he may, within five (5) days appeal to the mayor, who shall investigate the cause of the complaint and unless by his authority the order is revoked, such order shall remain in force and be forthwith complied with by said owner or occupant. At the end of each month the fire marshal shall report to the state fire marshal all existing hazardous conditions, together with separate report on each fire in the town during the month.

Sec. 5.109 Dilapidated Buildings; Penalty

Any owner or occupant of a building or other structure or premises, who shall keep or maintain the same when, for want of repair, or by reason of age or dilapidated condition, or for any cause, it is especially liable to fire, and which is so situated as to endanger buildings or property of others, or is especially liable to fire and which is so occupied that fire would endanger other persons or their property therein, shall be punished by a fine accordance with the general penalty provision found in Section 1.106 of this code.

Sec. 5.110 Hazardous Equipment; Penalty

Any owner or occupant of any building or other structure, or premises, who shall keep or maintain the same with an improper arrangement of a stove, range, furnace, or other heating appliance of any kind whatever, including chimneys, flues, and pipes with which the same may be connected, so as to be dangerous in the matter of fire, or health, or safety of persons or property of others; or who shall keep or maintain any building, other structure or premises with an improper arrangement of a lighting device or system, or with a storage of explosives, petroleum, gasoline, kerosene, chemicals, vegetable products, ashes, combustibles, inflammable materials, refuse, or with any other condition which shall be dangerous in character to the persons, health or property of others; or which shall be dangerous in the matter of promoting, augmenting or causing fires; or which shall create conditions dangerous to firemen, or occupants of such buildings, structure or premises other than the maintainer thereof, shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

Sec. 5.111 Prosecution After Failure To Comply

No prosecution shall be brought under Section 5.109 and Section 5.110 of this article until the order provided for in Section 5.108 be given, and the party notified shall fail or refuse to comply with the same.

Sec. 5.112 Recovery Of Penalties

The penalties provided for herein shall be recovered by the town in the same manner as provided by law for the enforcement of fines, forfeitures, and punishments for offenses against the town.

Sec. 5.113 Each Day Separate Offense

Every day's maintenance of any of the conditions prohibited in any of the foregoing Sections shall be a distinct and separate offense.

(Ordinance 1987-2 adopted 7/14/87)

ARTICLE 5.200 ARSONIST INFORMATION REWARD*

The Town of San Felipe, Texas, hereby offers a reward of two hundred fifty dollars (\$250.00) to anyone who secures and furnishes information necessary to and which results in the arrest and conviction of any person or persons who commit the crime of arson within the corporate limits of the city. This reward is a standing offer and shall be paid out of the contingency fund of the Town of San Felipe, Texas. The town council shall be the sole and exclusive judge in determining eligibility for the reward offered herein. (Ordinance adopting Code)

ARTICLE 5.300 FIREWORKS†

Sec. 5.301 Definitions

The term person as used in this article is hereby defined to mean and include: a person, firm, labor organizations, partnerships, associations, corporations, legal representatives, trustees in bankruptcy, or receivers.

Sec. 5.302 Throwing or Exploding Fireworks Unlawful

No person shall throw or explode any firecrackers, roman candles, skyrocketes, torpedoes, grenades, or any other combustible fireworks of any kind within the city limits of San Felipe, Texas.

* State law reference—Provisions regarding arson, V.T.C.A., Penal Code, Sec. 28.01.

† State law reference—Authority of municipality to regulate the use of fireworks, V.T.C.A., Local Government Code, Sec. 342.003.

Sec. 5.303 Public or Private Demonstrations or Displays

Nothing in this article shall prevent any public or private demonstrations or display of fireworks of any kind if conducted under proper police supervision after permission issued by the Town of San Felipe, for such demonstration or display shall be of such a character, and so located, discharged or fired, as in the opinion of the town after proper inspection shall not be hazardous to property or endanger any person or persons.

Sec. 5.204 Penalty for Violations

Any person in violation of this article shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance adopting Code)

CHAPTER 6

HEALTH & SANITATION

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Article 6.200:	Tall Grass, Weeds, Brush or Other Objectionable Material	6-3

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ARTICLE 6.100 TRASH DUMPING

It shall be unlawful for any person, or persons, to dump rubbish, trash or garbage along the public streets or highways within the corporate limits of the Town of San Felipe (de Austin) Texas, or to dump rubbish, trash or garbage on any other lands owned by the Town of San Felipe, Texas, except at designated town dumping grounds. Any person, or persons, violating this article, shall, upon conviction, be assessed a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance adopted 3/1/58)

**ARTICLE 6.200 TALL GRASS, WEEDS, BRUSH OR OTHER
OBJECTIONABLE MATERIAL**

Sec. 6.201 Duty to Maintain Property

(a) It shall be unlawful for any person owning, claiming, occupying or having supervision or control of any real property, occupied or unoccupied within the city to permit grass, weeds, Johnson grass, brush or any objectionable or unsightly matter to grow to a greater height than twelve (12) inches upon any such real property within one hundred fifty (150) feet of any property line which abuts street rights-of-way, alleys, utility easements, subdivided additions, developed property or any buildings or other structures.

(b) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, occupied, or unoccupied, within the city, to keep the area adjacent to his property line, including the front or side parkway between the property line, including the front or side parkway between the property line or sidewalk and the curb and the rear or side parkway between the property line and the alley pavement or traveled way, or if there is no curb, then within ten (10) feet outside such property line, free and clear of the matter referred to in subsection (a). Provided, however, that where the alleyway is not open to traffic, that the parkway in such cases shall be deemed to be between the property line and the center line of the alley. All vegetation not regularly cultivated and which exceeds twelve (12) inches in height shall be presumed to be objectionable and unsightly, except that regularly cultivated crops shall not be allowed to grow within the right-of-way of any public street or easement, but shall be kept mowed. It shall be unlawful for any person described herein to fail to cut and remove the matter referred to in subsection (a) from the areas described herein, and such failure shall constitute a violation hereof upon the terms and conditions of this section.

* State Law reference—Authority of municipality to regulate weeds, grass, etc., V.T.C.A., Health & Safety Code, Sec. 342.004.

(c) It shall be the duty of any person owning, claiming, occupying or having supervision or control of any real property, to cut and remove all such weeds, brush and other objectionable or unsightly matter as often as may be necessary; provided that the removing and cutting same at least once in every thirty (30) days shall be deemed a compliance with this article and to use every precaution to prevent the same growing on such premises so as to become a nuisance.

Sec. 6.202 Notice of Violation

(a) In the event that the owner of any lot, tract, parcel of land, or a portion thereof, situated within the corporate limits of the Town of San Felipe shall fail to comply with this article, then the city shall give notice to such person setting forth the noncompliance with this article. Such notice shall be in writing and may be served upon such person in any one or more of the following ways:

- (1) Personally given to the owner;
- (2) Addressed to the owner by letter to the owner's post office address; or,
- (3) If personal service cannot be obtained or if the owner's post office address, may be given by publication at least twice within ten (10) consecutive days in the city's official newspaper or by posting the notice on or near the front door of each building on the property to which the violation relates or by posting the notice on a placard attached to a stake driven into the ground on the property to which the violation relates, if the property contains no buildings.

(b) In the notice herein provided for, the city shall have the right to inform the property owner that if he or she commits another violation of the same kind or nature on or before the first anniversary of the date of the notice, the city may, without further notice, correct the violation at the owner's expense and assess the expense against the property.

(c) Should the violation consist of weeds in excess of forty-eight (48) inches in height which are deemed by the city to be an immediate danger to the health, life or safety of any person, the city may immediately abate said nuisance with no notice to the property owner.

Sec. 6.203 Dangerous Weeds

(a) The city may abate, without notice, weeds that:

- (1) have grown higher than 48 inches; and
- (2) are an immediate danger to the health, life, or safety of any person.

(b) Not later than the 10th day after the date the city abates the weeds under this article, the city shall give notice to the property owner in the manner required by Article 6.100.

(c) The notice shall contain:

- (1) an identification, which is not required to be a legal description, of the property;
- (2) a description of the violations of the ordinance that occurred on the property;
- (3) a statement that the municipality abated the weeds; and
- (4) an explanation of the property owner's right to request an administrative hearing about the city's abatement of the weeds.

(d) The city shall conduct an administrative hearing on the abatement of weeds under this article if, not later than the 30th day after the date of the abatement of the weeds, the property owner files with the city a written request for a hearing.

(e) An administrative hearing conducted under this article shall be conducted not later than the 30th day after the date a request for a hearing is filed. The owner may testify or present any witnesses or written information relating to the city's abatement of the weeds.

(f) The city may assess expenses and create liens under this article.

Sec. 6.204 Failure to Comply

(a) That if any person fails or refuses to comply with the provisions of this article within ten (10) days after date of notification in writing or by letter or date of publication of notice in the city's official newspaper, the city may go upon such property and do or cause to be done the work necessary to obtain compliance with this article.

(b) The expense incurred in correcting the condition of such property, and the cost of publishing notice in the newspaper shall be paid by the city and charged to the owner of such property. In the event the owner fails or refuses to pay such expense within thirty (30) days after the first day of the month following the one in which the work was done, the city shall file with the county clerk a statement of the expenses incurred in correcting the condition on the property. When such statement is filed, the city shall have a privileged lien on such property, second only to tax liens and liens for street improvements, to secure the payment of the amount so expended. Such amount shall bear interest at the rate of ten (10%) percent per annum from the date the city incurs the expense. For any such expenditures and interest, suit may be instituted and recovery and foreclosure had by the city, the statement of expense filed with the county clerk or a certified copy thereof shall be prima facie proof of the amount expended in such work as

improvement or correction of the property, all as more particularly specified in Art. 4436, Vernon's Annotated Texas Civil Statutes, which is hereby adopted.

Sec. 6.205 Penalty for Violation

That any person violating any of the provisions of this article, shall be subject to a fine, as provided for in the general penalty provision found in Section 1.106 of this code, upon conviction in the municipal court of the Town of San Felipe, and each and every day that the premises shall remain in a condition in violation of the terms of this article shall constitute a separate offense. This section shall be in addition to and cumulative of the provisions for the abatement of the said nuisance and charging the cost of same against the owner of the premises by the city.

(Ordinance adopting Code)

CHAPTER 7

OFFENSES & NUISANCES

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ARTICLE 7.100 JUNKED AND ABANDONED VEHICLES***Sec. 7.101 Definitions**

For the purposes of this article, the following words and phrases shall have the meanings respectively ascribed to them by this paragraph:

Abandoned Motor Vehicle. For the purposes of this article, a motor vehicle is abandoned if the motor vehicle:

- (1) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (2) has remained illegally on public property for more than 48 hours;
- (3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
- (4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; or
- (5) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority or a controlled access highway.

Demolisher. Means a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle.

Garagekeeper. Means an owner or operator of a parking place or establishment, motor vehicle storage facility, or establishment for the servicing, repair, or maintenance of a motor vehicle.

Junked Vehicle. Means a motor vehicle that is self-propelled and inoperable and:

- (1) does not have lawfully attached to it:
 - (A) an unexpired license plate; or
 - (B) a valid motor vehicle inspection certificate;
- (2) is wrecked, dismantled or partially dismantled, or discarded; or

* State Law reference—Regulation of abandoned and junked motor vehicles, V.T.C.A., Transportation Code, ch. 683.

- (3) has remained inoperable for more than 45 consecutive days.

Storage Facility. Means a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles.

Motor Vehicle. Means a motor vehicle subject to registration under the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes, as amended).

Antique Auto. Means a passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least thirty-five (35) years old.

Special Interest Vehicle. Means a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by hobbyists.

Collector. Means the owner of one or more antique or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest.

(Ordinance 1985-4 adopted 10/8/95; Ordinance adopting Code)

Sec. 7.102 Authority To Take Possession Of Abandoned Motor Vehicles

- (a) The police department may take into custody an abandoned motor vehicle found on public or private property.
- (b) The police department may employ its own personnel, equipment, and facilities or hire persons, equipment, and facilities to remove, preserve, and store an abandoned motor vehicle it takes into custody.

Sec. 7.103 Notification Of Owner And Lien Holders

- (a) If the police department takes into custody an abandoned motor vehicle it shall notify, not later than the tenth (10th) day after taking the motor vehicle into custody, by certified mail, the last known registered owner of the motor vehicle and all lien holders of record pursuant to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes), that the vehicle has been taken into custody.

The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, set forth the location of the facility where the motor vehicle is being held, inform the owner and any lien holders of their right to reclaim the motor vehicle not later than the twentieth (20th) day after the date of the notice, on payment of all towing, preservation, and storage charges resulting from placing the vehicle in custody, or garagekeeper's charges if notice is under Section 7.105 of this article. The

notice shall also state that the failure of the owner or lien holders to exercise their right to reclaim the vehicle within the time provided constitutes a waiver by the owner and lien holders of all right, title, and interest in the vehicle and their consent to the sale of the abandoned motor vehicle at a public auction.

(b) If the identity of the last registered owner cannot be determined, if the registration contains no address for the owner, or if it is impossible to determine with reasonable certainty the identity and addresses of all lien holders, notice by one publication in one newspaper of general circulation in the area where the motor vehicle was abandoned is sufficient notice under this article. The notice by publication may contain multiple listings of abandoned vehicles, shall be published within the time requirements prescribed for notice by certified mail, and shall have the same contents required for a notice by certified mail.

(c) The consequences and effect of failure to reclaim an abandoned motor vehicle are as set forth in a valid notice given under this Section.

Sec. 7.104 Auction Of Abandoned Motor Vehicles

(a) If an abandoned motor vehicle has not been reclaimed as provided by Section 7.103 of this article, the police department shall sell the abandoned motor vehicle at a public auction. The public auction shall be preceded by a notice published once in one newspaper of general circulation in the county where the auction is to take place, at least three (3) weeks prior to the date of the auction, and in the case of a garagekeeper's lien, the garagekeeper shall be notified by certified mail. The notice shall describe the year, make, model, and vehicle identification number of the abandoned motor vehicle, and set for the time and place of the auction.

(b) The purchaser of the motor vehicle takes title to the motor vehicle free and clear of all liens and claims of ownership, shall receive a sales receipt from the police department of the City, and is entitled to register the purchased vehicle and receive a certificate of title. From the proceeds of the sale of an abandoned motor vehicle, the police department shall reimburse itself for the expenses of the auction, the costs of towing, preserving, and storing the vehicle that resulted from placing the abandoned motor vehicle in custody, and all notice and publication costs incurred under Section 7.103 of this article. Any remainder from the proceeds of a sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days and then shall be deposited in a special fund that shall remain available for the payment of auction, towing, preserving, storage, and all notice and publication costs that result from placing another abandoned vehicle in custody, if the proceeds from a sale of another abandoned motor vehicle are insufficient to meet these expenses and costs.

Sec. 7.105 Garagekeepers And Abandoned Motor Vehicles

(a) A motor vehicle is considered an abandoned vehicle, and shall be reported by the garagekeeper to the police department, if:

- (1) Left for more than ten (10) days in a storage facility operated for commercial purposes, after notice is given to the owner as provided by this section; or
- (2) Left for more than ten (10) days after the expiration of a period under a contract pursuant to which the vehicle was to remain on the premises of the storage facility; or
- (3) Left for more than ten (10) days in a storage facility by someone other than the registered owner or by a person authorized to have possession of the motor vehicle under a contract of use, service, storage, or repair.

(b) A garagekeeper who fails to report the possession of an abandoned vehicle within ten (10) days after it becomes abandoned may no longer claim reimbursement for storage of the vehicle.

(c) The police department, upon receipt of a report from a garagekeeper of the possession of a vehicle considered abandoned under the provisions of this Section shall follow the notification procedures provided by Section 7.103 of this article, except that custody of the vehicle shall remain with the garagekeeper until after compliance with the notification requirements. A fee of two dollars (\$2.00) shall accompany the report of the garagekeeper to the police department. The two dollar (\$2.00) fee shall be retained by the police department and used to defray the cost of notification or other cost incurred in the disposition of an abandoned motor vehicle.

(d) An abandoned vehicle left in a storage facility and not reclaimed after notice is sent in the manner provided by Section 7.103 of this article shall be taken into custody by the police department and sold in the manner provided by Section 7.104 of this article. The proceeds of such sale shall first be applied to the garagekeeper's charges for servicing, storage, and repair, but as compensation for the expense incurred by the police department in placing the vehicle in custody and expense of auction, the police department shall retain two percent (2%) of the gross proceeds of the sale of each vehicle auctioned, unless the gross proceeds are less than ten dollars (\$10.00). If the gross proceeds are less than ten dollars (\$10.00), the department shall retain the ten dollars (\$10.00) to defray expenses of custody and auction. Surplus proceeds remaining from an auction shall be distributed in accordance with Section 7.104 of this article.

(e) Except for the termination of claim for storage for failure to report an abandoned motor vehicle, nothing in this section may be construed to impair any lien of a garagekeeper under the laws of this state.

Sec. 7.106 Junked Vehicles As Public Nuisance

(a) A junked vehicle that is located in a place where it is visible from a public place or public right-of-way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the city by producing urban blight adverse to the maintenance and continuing development of the city, and is a public nuisance.

The provisions of this section shall not apply to:

- (1) A vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
- (2) A vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard; or
- (3) An unlicensed, operable, or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so that they do not constitute a health hazard and are screened from ordinary public view by means of a fence, trees, shrubbery, or other appropriate means.

(b) A person commits an offense if that person maintains a public nuisance as determined under this section.

Sec. 7.107 Procedures For Abating Nuisance

(a) For a nuisance on private property, not less than ten (10) days notice is required stating the nature of the public nuisance on private property, that it must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice shall be sent, by certified mail, with a five (5) day return requested, to the owner or occupant of the private premises on which the public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

(b) For a nuisance on public property, not less than ten (10) days notice is required stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice shall be sent, by certified mail, with a five (5) day return requested, to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public

right-of-way on which the public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than ten (10) days after the date of the return.

(c) A vehicle removed under these procedures shall not be reconstructed or made operable after it has been removed.

(d) A public hearing is required before the removal of the vehicle or vehicle part as a public nuisance, if requested as provided in subsections (a) and (b) of this section. The hearing shall be held before the city council or an official of the city, designated by the city council, if a hearing is requested by the owner or occupant of the public or private premises or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located, within ten (10) days after service of notice to abate the nuisance. A resolution or order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

(e) Notice shall be given to the State Department of Highways and Public Transportation not later than the fifth (5th) day after the date of removal of the vehicle or vehicle part. The notice must identify the vehicle or vehicle part. The department shall immediately cancel the certificate of title to the vehicle pursuant to the Certificate of Title Act (Article 6687-1, Vernon's Texas Civil Statutes).

Sec. 7.108 Disposal Of Junked Vehicles

A junked vehicle or vehicle part may be disposed of by removal to a scrapyard, demolisher, or any suitable site operated by the city for processing as scrap or salvage. The process of disposal must comply with the provisions of Article 4477-9a, Vernon's Texas Civil Statutes.

Sec. 7.109 Authority To Enforce

A person authorized by the city to administer the procedures established by this article may request permission to enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance. The municipal court of the city may issue orders necessary to enforce these procedures.

Sec. 7.110 Removal Of Vehicle As Obstruction To Traffic

This article does not affect any law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property.

Sec. 7.111 Penalty

Any person who violates any provision of this article shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1985-4 adopted 10/8/95)

ARTICLE 7.200 SMOKING

(a) It shall hereafter be unlawful for anyone to be in possession of a burning tobacco product or smoking of tobacco in any one of the following areas:

- (1) Town of San Felipe Municipal Building - 4220 Sixth Street
- (2) Historical Town Hall and School - Sixth Street
- (3) San Felipe United Methodist Church - FM 1458
- (4) San Felipe United Methodist Church Educational Bldg. - FM 1458
- (5) San Felipe Recreational Building - Front Street
- (6) San Felipe/Frydek Volunteer Fire Station Meeting Room and Kitchen FM 1458

(b) It shall be a defense to prosecution under this article that the public area in which the offense takes place does not have prominently displayed a reasonably sized notice that smoking is prohibited by ordinance of the Town of San Felipe and that an offense is punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(c) It shall be a defense to prosecution under this article if the public area within which the offense takes place is not equipped with facilities for extinguishment of smoking materials;

(d) It is an exception to the application of this article if the person is in possession of the burning tobacco product or smoking of tobacco exclusively within an area designated for smoking tobacco;

(e) Any person who shall violate any of the provisions of this article shall be equally guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code, and in

addition to such fine, such person(s) who shall violate the provisions of this article may be enjoyed from continuing such violations.

(Ordinance 1989-2 adopted 11/14/89)

ARTICLE 7.300 ALCOHOLIC BEVERAGE CONSUMPTION

(a) It shall be unlawful for any person to consume alcoholic beverages in any town building or park. A sign or signs shall be posted at the entrances to the town's buildings and park grounds, giving notice prohibition. Alcoholic beverage shall have the set forth in the Texas Alcoholic Beverage Code.

(b) Any person who violates this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1992-1 adopted 2/11/92)

ARTICLE 7.400 NOISE REGULATIONS*

(a) It shall be unlawful for any person to use or operate, cause to operated, or allow to be used or operated, any mechanical device or electrical device, machine, apparatus or instrument to intensify or to amplify any other sound in the Town of San Felipe, whereby the sound therefrom can be heard to the annoyance or inconvenience of travelers upon any street or public place, or of persons in neighboring premises.

(b) The following acts, among others, are declared to be nuisances in violation of this article, but said enumeration's shall not be deemed to be exclusive, to-wit:

- (1) The playing of any radio, phonograph or other musical instrument in such manner or with such volume, particularly during the hours between 10:00 P.M. and 7 A.M., as to annoy or disturb the quiet, comfort or repose of persons of normal nervous sensibilities and of ordinary tastes, habits, and modes of living in any office building, dwelling or other type of residence.
- (2) The use of any stationary loud-speaker or amplifier of such intensity that annoys or disturbs persons of normal nervous sensibilities and of ordinary tastes, habits, and modes of living in the immediate vicinity thereof; the use of any stationary loud-speaker or amplifier operated on any day between the hours of 10:00 P.M. and 7:00 A.M. This provision shall not be construed to

* State Law reference—Authority of municipality to restrain or prohibit the ringing of bells, blowing of horns, hawking of goods, or any other noise, V.T.C.A., Local Government Code, Sec. 217.003.

deny any party the right to operate church bells or chimes or conduct any outdoor meeting using a stationary loud-speaker. In the event such speakers shall be used after the hour of 10:00 P.M., individuals desiring to operate same shall receive a permit from the city who shall not unreasonably withhold the same.

- (3) The keeping of any animal or fowl which by causing frequent or long continued noise shall disturb the comfort and repose of any person of normal nervous sensibilities and ordinary taste, habits, modes of living in the immediate vicinity.
- (4) The continued or frequent sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle except as a danger or warning signal; the creation by means of any such signal device of any unreasonable loud or harsh device for any unnecessary and unreasonable period of time.
- (5) The discharge into the open air of the exhaust of any stationary internal combustion engine or motor vehicle or boat engine except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (6) The use of any automobile, motorcycle or vehicle, in a state of disrepair or loaded or operated in such a manner as to create loud or unnecessary noises such as spinning or squealing of tires, loud or defective exhaust, grating, grinding, rattling or other noises.
- (7) The erection, including excavation, demolition, alteration or repair work on any building between the hours of 8:00 P.M. and 6:00 A.M., except in case of urgent necessity in the interest of public safety and convenience, and then only by permit from the city, which permit may be renewed during the time the emergency exists.
- (8) The creation or causing of any unreasonable or excessive noise, that is calculated to disturb a person of ordinary sensibilities, by any means on any street adjacent to any school while the same is in session and in or near a residence.

(c) Any person violating the provisions of this article shall be guilty of a Class C misdemeanor as defined by the Texas Penal Code 12.23 and shall be subject to a fine as provided for in the general penalty provision found in Section 1.106 of this code.

(Ordinance adopting Code)

ARTICLE 7.500 CURFEW**Sec. 7.501 Definitions**

The following words and phrases when used in this article shall, for the purpose of this article, have the meanings respectively ascribed to them in this section.

Curfew Hours. Means 12:01 a.m. until 6:00 a.m. on any Monday, Tuesday, Wednesday, Thursday, or Friday; and 1:00 a.m. until 6:00 a.m. on any Saturday or Sunday.

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

Guardian. Means a person who, under court order, is the guardian of the person of a minor; or a public or private agency with whom a minor has been placed by a court.

Minor. Means any person under 17 years of age.

Operator. Means any individual, firm, association, partnership, or corporation operating, managing, or conducting any establishment. The term includes the members or partners of an association or partnership and the officer of a corporation.

Parent. Means a person who is a natural parent, adoptive parent, or stepparent of another person; or at least 18 years of age and authorized by a parent or guardian to have the care and custody of a minor.

Public Place. Means any place to which the public or a substantial group of the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transport facilities, and shops.

Remain. Means to linger or stay; or fail to leave premises when requested to do so by a police officer or the owner, operator, or other person in control of the premises.

Serious Bodily Injury. Means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

Sec. 7.502 Offenses

- (a) A minor commits an offense if he remains in any public place or on the premises of any establishment within the city during curfew hours.
- (b) A parent or guardian of a minor commits an offense if he knowingly permits, or by insufficient control allows, the minor to remain in any public place or on the premises of any establishment within the city during curfew hours.
- (c) The owner, operator, or any employee of an establishment commits an offense if he knowingly allows a minor to remain upon the premises of the establishment during curfew hours.

Sec. 7.503 Defenses

It is a defense to prosecution under Section 7.502 that the minor was:

- (1) Accompanied by the minor's parent or guardian;
- (2) On an errand at the direction of the minor's parent or guardian, without any detour or stop;
- (3) In a motor vehicle involved in interstate travel;
- (4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;
- (5) Involved in an emergency;
- (6) On the sidewalk abutting the minor's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the minor's presence;
- (7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the Town of San Felipe, the school district, a civic organization, church 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 Town of San Felipe, the school district, church, a civic organization, or another similar entity that takes responsibility for the minor;
- (8) Exercising First Amendment rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly; or

- (9) Married or had been married or had disabilities of minority removed in accordance with Chapter 31 of the Texas Family Code.
- (10) Under Section 7.502(c) that the owner, operator, or employee of an establishment promptly notified the police department that a minor was present on the premises of the establishment during curfew hours and refused to leave.

Sec. 7.504 Enforcement

Before taking any enforcement action under this article, 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 article unless the officer reasonably believes that an offense has occurred and that, no defense in Section 7.503 is present.

Sec. 7.505 Penalties

(a) A person who violates a provision of this article is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. Each offense, upon conviction, is punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(b) When required by Section 51.08 of the Texas Family Code, as amended, the municipal court shall waive original jurisdiction over a minor who violates Section 7.502(a) of this article and shall refer the minor to juvenile court.

(Ordinance adopting Code)

CHAPTER 8

PERSONNEL & ADMINISTRATION

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ARTICLE 8.100 POLICE DEPARTMENT

Sec. 8.101 Creation

There is hereby created a police department for the Town of San Felipe, Texas, which shall consist of a chief of police and such other police officers as may be provided for by the town council. The office of city marshal is eliminated and disposed with as an official of the town.

Sec. 8.102 Salaries

The chief of police and other police officers of the department shall receive a salary or fees of office, or both, as may be fixed from time to time by the town council.

Sec. 8.103 Appointment of Chief and Officers

The chief of police shall be appointed by the mayor, upon prior approval of the town council. All other police officers of the department shall be appointed by the chief of police upon prior approval of the town council. The chief of police and other police officers of the department shall not serve for a specific time, but shall hold their office at the pleasure of the town council and are subject to removal by the town council with or without cause.

Sec. 8.104 Qualifications of Chief and Officers

The chief of police and police officers of the department shall have such qualifications and shall execute such bond for the faithful performance of their duties as the town council may require.

Sec. 8.105 Powers and Duties of Chief

(a) The chief of police is the executive officer of the department. He shall have the authority for enforcement of police department policies and police officers' responsibilities, together with full responsibility for the complete discharge of all duties imposed on him by law. The chief of police shall be the keeper of the town jail, if any, and shall have custody of all persons incarcerated therein. He shall have the custody of all lost, abandoned or stolen property recovered in the town. He shall keep such records and reports concerning the activities of the department as may be required by statute or by the town council. The chief of police shall be responsible for the performance by the police department of its functions and duties, and all persons who are members of the police department shall serve subject to the orders of the chief of police.

* State Law reference—Police force in Type A general law municipality. V.T.C.A., Local Government Code, Sec. 341.003.

(b) Police officers of the town shall have like powers, rights and authority as are vested by state law in town marshals, and they shall perform such duties as state law and the town council may require.

Sec. 8.106 Powers and Duties of Officers

(a) It shall be the duty of every member of the police department to conduct himself or herself in a proper and law abiding manner at all times and to avoid the use of unnecessary force. Each member of the department shall obey the orders and directions of his/her superior.

(b) Members of the police department shall preserve the public peace, prevent crime, detect and arrest violators of the law, protect life and property, and enforce those federal, state and city statutes, which the department is required to enforce by law.

(c) A police officer of the town may arrest an offender, without a warrant, for any offense committed in his presence or within his view.

(d) A police officer of the town may arrest, without warrant, when a felony or breach of the peace has been committed in the presence or within the view of a magistrate, and such magistrate verbally orders the arrest of the offender.

(e) A police officer of the town may arrest, without warrant, persons found in suspicious places and under circumstances which reasonably show that such persons have been guilty of some felony or breach of the peace, or threaten to or are about to commit some offense against the laws of the town or state.

(f) Where it is shown by satisfactory proof to a police officer of the city upon the representation of a credible person that a felony has been committed, and that the offender is about to escape, so that there is no time to procure a warrant, such police officer may, without warrant, pursue and arrest the accused.

Sec. 8.107 Special Force Authorized

Whenever the mayor deems it necessary, in order to enforce the laws of the town, or to avert danger, or to protect life or property, in case of riot or any outbreak or calamity or public disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak or any other danger to said town, or the inhabitants thereof, he shall summon into service as a special police force, all or as many of the citizens as in his judgment may be necessary. Such summons may be by proclamation or other order addressed to the citizens generally, or those of any ward of the town, or subdivision thereof, or may be by personal notification. Such special police force while in service, shall be subject to the orders of the mayor, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said town. No

special policemen shall be entitled to any compensation from the town, nor shall any such special policeman be considered any employee of the town by reason of such

(Ordinance 1986-2 adopted 6/30/86)

ARTICLE 8.200 MUNICIPAL COURT*

Sec. 8.201 Judge

(a) The office of judge of the municipal court of the Town of San Felipe, Texas shall be filled by appointment, with term of office to run concurrent with the term of office of the mayor. Such appoint shall be made by the mayor, to be confirmed by the town council. The first judge to be appointed under this article shall hold office for the remainder of the unexpired term of the incumbent mayor; and thereafter a judge shall be appointed for a term of two years. All judges so appointed and confirmed shall serve for the term for which appointed and until their successor shall have been duly qualified. Any vacancy in office of judge of the municipal court shall be filled in the same manner as above provided, to serve for the remainder of the term of such judge and until his successor shall have been duly qualified.

(b) The mayor may also appoint an alternate judge to serve when regular judge of the municipal court is on vacation, is sick, is disqualified to sit in a particular case, or is temporarily unable to act for any reason.

(c) All judges appointed under the provisions of this article shall take and subscribe to the constitutional oath of office before entering upon the performance of their duties as such.

(Ordinance 1984-3 adopted 7/10/84)

Sec. 8.202 Special Expense Fee Authorized

(a) The presiding judge and any associate or alternate judge of the municipal court of the city may assess the special expense fee not to exceed ten dollars (\$10.00), as described in Article 45.06, Code of Criminal Procedure, dealing with the collection of expenses for services performed in cases in which the laws of the State of Texas require that the case be dismissed by or on behalf of a defendant in compliance with the provisions of subsection (a), Section 143A, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes).

* State Law reference—Municipal courts, generally, V.T.C.A., Government Code, Sec 29.001, et seq.

(b) This section shall be in effect only for those special expenses imposed for an offense committed on or after September 1, 1987.

(Ordinance 1990-7 adopted 4/3/90)

ARTICLE 8.300 SERVICE OF WARRANTS*

(a) Any commissioned law enforcement officer of the Town of San Felipe or the state of Texas, when otherwise duly authorized by law to execute warrants of arrest, shall be compensated at the rate of thirty-five dollars (\$35.00) per warrant served, provided however, that no single individual shall receive compensation in excess of three hundred fifty dollars (\$350.00) per month without prior approval of the Town Council.

(b) No officer in the regular employ of the Town of San Felipe Police Department shall receive compensation for warrants served within the Town of San Felipe or warrants served during regular duty hours.

(c) No payments shall be allowed unless authorized by the chief of police of the Town of San Felipe.

(Ordinance 1998-2 adopted 4/14/98)

ARTICLE 8.400 PERSONNEL POLICIES MANUAL

(a) The personnel policies manual of the Town of San Felipe, as attached as Exhibit "A" to this chapter, is hereby adopted by the town council of the Town of San Felipe as the official policy manual pertaining to the employees of the Town of San Felipe.

(b) All personnel shall be briefed on the personnel policies and given a copy of this manual.

(c) Such manual may be periodically revised and amended as recommended and as deemed appropriate by the town council.

(d) The town secretary is hereby directed to keep a full and correct copy of such manual, such copies to be the official copies of the manual.

* State Law reference—Municipal court fines and special expenses. V.T.C.A., Code of Criminal Procedure. Art. 45.06.

(c) Policies contained in such manual shall become effective on the effective date of the ordinance adopting this article.

(Ordinance 1999-4 adopted 8/10/99)

ARTICLE 8.500 DRUG FREE WORKPLACE POLICY

The Town of San Felipe, Texas hereby approves and adopts a Drug Free Workplace Policy, a copy of which shall be maintained on file in the office of the town secretary and made a part hereof, and shall be effective after the date hereof. (Ordinance 1999-6 adopted 8/10/99)

ARTICLE 8.600 MUNICIPAL COURT TECHNOLOGY FUND*

(a) There is hereby created and established a municipal court technology fund (the "fund"), pursuant to Article 102.0172, Texas Code of Criminal Procedure.

(b) The municipal court of the Town of San Felipe, Texas (the "municipal court") is hereby authorized and required to assess a municipal court technology fee (the "fee") in the amount of four and no/100 dollars (\$4.00) against all defendants convicted of a misdemeanor offense in the municipal court. Each misdemeanor conviction shall be subject to a separate assessment of the fee.

(c) The municipal court clerk is hereby authorized and required to collect the fee and to pay same to the treasury of the town. All fees so collected and paid over to the treasury of the town shall be segregated in the fund.

(d) The fund shall be used only for the purposes of financing the purchase of items used to provide certain technological enhancements for the municipal court of the town. Technological enhancement items shall include any and all items described in Article 102.0172(d) of the Code of Criminal Procedure.

(e) The fund shall be administered under the direction of the town council of the town.

(Ordinance 1999-5 adopted 8/10/99)

* State Law reference—Authority of municipality to imposed municipal court technology fee. V.T.C.A., Code of Criminal Procedure, Article 102.0172.

CHAPTER 8, EXHIBIT "A"

PERSONNEL POLICIES MANUAL

**TOWN OF SAN FELIPE de AUSTIN
PERSONNEL PRACTICES**

SECTION A: GENERAL

This memorandum of personnel practices is for the guidance of the employees and management of the Town of San Felipe. In so far as practical, exceptions to these personnel practices should be avoided. In the event, however, it should be deemed advisable by the management of the Town of San Felipe that an exception be made, a request for approval of such exception should be prepared and presented before the city council at the next regularly scheduled meeting by the city secretary or mayor. These personnel practices shall apply to all city employees.

SECTION B: NONDISCRIMINATION

There shall be no discrimination against any employee, including the hiring of new employees, based on race, religion, color, sex, national origin, age veteran status, or handicapped status. Management will be responsible for the overall coordination and supervision of our equal employment opportunity and affirmative action efforts, including assisting each employee in meeting the city's affirmative action goals. An employee who feels they have been discriminated against may process a grievance in accordance with the procedures in Section K of this memorandum of personnel practices.

SECTION C: PROBATIONARY EMPLOYEES

Every person initially hired by the Town of San Felipe shall be required to full complete a probationary period. This probationary period shall be three (3) calendar months of continuous employment. The employee shall be classified a probationary employee during the probationary period.

The purpose of the probationary period is to permit Administration to closely observe and evaluate the work and fitness of the probationary employee, and to encourage adjustment to their jobs and city service. Only those probationary employees who meet acceptable standards during their probationary period shall be retained. The successful completion of this period should not be construed as creating a contract or as guaranteeing employment for any specific duration or as establishing a "just cause" termination standard.

During the probationary period mayor and council shall be the sole judge of the probationary employee's qualification. A probationary employee shall fail the probation when, in the judgment of management, the probationary employee's fitness and/or quality of work are not such as to merit continuation on the job. Management shall ensure documentation of all cases of failure of probation, as well as counseling and other efforts to help probationary employees during the probationary period. Prior approval must be obtained from the Mayor and Council before anyone fails the probationary period. All employees will be given notice and a hearing prior to termination, however, a

probationary employee who fails probation does not have the recourse to an appeal. Failure of probation may occur at any time within the probationary period and shall not be considered part of the disciplinary process.

SECTION D: FULL-TIME AND PART-TIME EMPLOYEES

A probationary employee who successfully completes a probationary period shall be considered a non-probationary employee and will be classified as either full-time (40 hour week) or part-time (less than 40 hour week). Seniority shall apply to full-time employees. After successful completion of a probationary period, the date of employment shall be established as the date of seniority. A full-time employee shall be paid for hours not worked resulting from normal employee benefits, such as holidays or vacations as specified in Section E and Section F of this memorandum of personnel practices. A full-time employee shall be eligible for all city benefit programs upon completion of the usual waiting periods. Part-time employees shall not receive pay for being off. Part-time employees are not eligible for vacation, sick leave, holidays, or any other benefit programs i.e., retirement or major medical insurance.

SECTION E: HOLIDAYS

The following days are to be considered as holidays: New Year's Day, Presidents' Day, Good Friday, Memorial Day, Independence Day, Labor Day, Austin County Fair Day, Veteran's Day, Thanksgiving Day, Day after Thanksgiving, Christmas Eve, Christmas Day, and Employee's Birthday. A total of (13) paid holidays.

Full-time employees who have been continuously employed for three (3) months and have obtained seniority shall be entitled up to eight (8) hours pay. Any full-time employee entitled to the above mentioned holiday pay shall be required to work the full-time employee's last regularly scheduled shift before and the employee's first regularly scheduled shift after the holiday. If any of the above mentioned holidays fall within full-time employee's vacation period, the city agrees that at the full-time employee's option, the full-time employee may take up to one (1) more day of vacation.

Employees will be expected to work if their job is considered essential. Essential jobs shall be at least one (1) member of the public works department. Whenever any of the above mentioned holidays fall on a Sunday, it will be observed on the following Monday, and whenever any of the above holidays fall on a Saturday, the city will have the right to observe the same on the preceding Friday, with the same force and effect as if said holiday fell on such Monday or such Friday.

SECTION F: VACATIONS

There will be no vacation nor pay in lieu of vacation during the first calendar year of employment. In the second calendar year of employment, each full-time employee will receive one (1) day, eight (8) hours of vacation for each three hundred (300) straight-

time hours worked up to a maximum of the (1) week five (5) days Hours shall be computed from the final pay records for the previous calendar year. In the third through the eighth calendar years of employment, each non-probationary employee will receive one (1) day, eight (8) hours of vacation for each one hundred fifty (150) straight-time hours worked up to maximum of two (2~ weeks ten (10) days In the ninth and subsequent calendar years of employment, vacation will be one (1) clay, eight. (8) hours, for each one hundred (100) straight-time hours worked up to a maximum of three weeks, fifteen (15) days.

A full-time employee whose employment is terminated for any reason other than discharge for cause, such as, but not limited to, theft or destruction of city or fellow employee's property, use of drugs for alcohol on city property, violation of the city rules, insubordination, etc., will be entitled to pay in lieu of vacation. Pay will be computed as above, substituting the date of termination for December 31st Vacation will be taken in the calendar year earned. Each full-time employee eligible for vacation will be consulted and an effort made to set a mutually satisfactory time consistent with the work demand of the city (office employees may not take vacation the 1st, 3rd, or 10th). Preference will be given to senior employees whenever possible. The mayor will be the final authority on setting vacation Any changes or deviations from this policy will first be approved by the mayor and city council. Part-time employees are not eligible for vacation.

SECTION G: COMPENSABLE INJURY OR DISEASE

Any employee who suffers a compensable injury occupational disease under existing worker's compensation laws will automatically be eligible for a leave of absence. Upon recovery from the disability and his/her return to work, this non-probationary employee will return to the former job classification or substantially similar classifications, provided such classifications exists and in accordance with seniority rights or physical ability. An employee who is a participant in any group retirement plan on the day a compensable injury or disease begins may continue participation at the same cost as while an active employee. All employees must complete an accident report within 24 hours of an injury and submit to city secretary

SECTION H: NON-OCCUPATIONAL ILLNESS OR INJURY

Leaves of absences for non-occupational illness or injury lasting beyond five (5) continuous days will be given eligible employees for periods up to thirty (30) days, upon written request substantiated by a certificate from a qualified physician. The leave may be extended for a period not to exceed one (1) year including the first thirty (30) days. The city reserves the right to have an employee on such leave to submit to an examination by a physician selected and paid for by the city at any time during the leave period. Refusal to submit to such examination is considered immediate resignation.

Employees on non-occupational illness and injury leave of absence will continue to participate in the employee group retirement plan at the same cost as an active employee.

However, the cost will be to the employee not the city. After release to return to work, the employee will be placed on any job available which he or she is qualified to perform; however, such placement will not displace another employee.

A full-time employee that has more than one (1) year of service with the city will be entitled to sick leave with pay at the rate of one-half (1/2) day per month. Sick leave cannot be taken in advance and must be accompanied by a doctor's permit before it can be collected if (3) consecutive days are missed. Sick leave may accumulate a maximum of 12 days. Sick leave is not paid when an employee is terminated.

SECTION I: RELIEF PERIODS

Each employee shall be allowed a fifteen (15) minute relief period during the first four (4) hours and a like fifteen (15) minute relief period during the second four (4) hours without any deduction from pay. Such relief periods shall be taken at times prescribed by the supervisor.

Any employee shall be allowed a one (1) hour relief period without pay for a meal break. If the job is considered essential, the employee may be required to eat at the job site. With permission from the city mayor/city secretary, lunch can be thirty (30) minutes instead of one (1) hour.

SECTION J: DISCIPLINARY ACTION

Employees shall comply with posted rules and regulations of the city and any violation of such rules and regulations shall be cause for disciplinary action, including discharge. It is the intention of this policy on city work rules that all rules be enforced impartially and fairly, for the purpose of maintaining work efficiency, discipline, and health and safety of the work force.

It is to be understood that the management reserves the right to discharge any employee for sufficient and proper cause. Violation of the following basic rules of conduct will be considered just cause for discipline or discharge. This does not limit the city's right to discipline or discharge employees for violation, OT other commonly accepted rules of conduct not specifically listed.

1. Dishonesty in any for or decree. Charges must be filed and convicted.
2. Being under the influence of or possession or using alcoholic beverages for habit forming drugs on the city premises or while on the city's business. Failure to submit to intoxilyzer or blood test may be cause for discharge.
3. Damage or destruction of the city's property due to carelessness or willful acts.
4. Unauthorized removal or use of property belonging to the city, its contractor, or any other employee.

5. Insubordination for violation of any reasonable official rule or order given by management.
6. Loafing or sleeping on the job, inefficient performance of duties, incompetence, failure or refusal to perform work as directed, or refusal to accept necessary after hours work without justifiable personal reasons.
7. Negligence in observing fire prevention and federal safety regulations.
8. Excessive absences (5) or tardiness (5).
9. Inability or unwillingness to work in harmony with other employees or persons doing business with the city.
10. Fighting, gambling, or using profane, obscene or abusive language on the city's premise or while on city business.
11. Deliberately giving false information on one's self or fellow employee's pay records.
12. Violation of posted rules and regulations.
13. Conviction of a felony or conviction of a misdemeanor involving moral turpitude.

Violations of the posted rules and regulations will result in a level of disciplinary action based on the following consideration:

- a. Seriousness of the offense.
- b. Number of past offenses and resulting discipline
- c. Length of service of employee.
- d. Extenuation of circumstances and reasons.

The levels of disciplinary action available to management are:

- a. Verbal warning For a minor first violation, an oral reprimand will normally be given, identifying any violations and indicating needed improvements.
- b. Written warning: Another recourse is the written reprimand which shall be signed by the supervisor and the employee and placed in the employee's personnel file. If the employee refuses to sign, a witness shall sign to show that a copy was given to the employee. The employee's signature indicated receipt of the document only, and is not acceptance of its contents
- c. Two (2) day suspension without pay. For more serious violations a supervisor may suspend an employee without pay for two (2) days The employee shall be given written notice of the reason for the suspension, and the notice shall be placed in the employee's personnel file.
- d. Discharge: Normally this occurs when the other disciplinary action has failed to achieve the needed results. Prior to the discharge, the department head should be sure that the employee has been properly counseled concerning failure to comply may result in termination. However; this policy shall not in any way prevent the supervisor from taking immediate action when the nature of the offense warrants such action.

Note that is possible for a first offense to be sufficiently serious to warrant discharge.

All supervising management of the city have the authority to issue verbal and written warnings to employees, with a copy to be sent to the mayor for the employee's personnel file. Suspension and discharge must be approved by the mayor prior to implementation so that charges can be investigated and both sides heard. However, in the absence of the mayor, an employee may be asked to go home for remainder of the day to allow time for the mayor to be contacted. The employee must report personally to the supervisor immediately prior to the start of the employee's next regularly scheduled shift.

A non-probationary employee has the right to process an appeal of any disciplinary action in accordance with the procedures in Section K of this memorandum on personnel practices.

SECTION K: APPEALS AND GRIEVANCES

Any non-probationary employee who desires to appeal a decision (1) directly affecting the non-probationary employee's status, pay or employment, or (2) considered by the non-probationary employee to adversely affect their conditions of employment, shall have the right to appeal the decision.

An appeal must be filed with the non-probationary employee's department head within ten (10) working days after the effective date of the decision the nonprobationary employee is appealing. The appeal must be in writing and set forth the reasons why the decision that is being appealed is believed to be improper. A nonprobationary employee may be represented by any person of their own choosing in the presentation of the appeal.

Within three(3) working days after receiving such appeal the department head shall furnish the non- probationary employee with a written reply to the appeal. If the written reply to the appeal is not satisfactory to the non-probationary employee, the non-probationary employee may, within ten (10) working days after receiving the reply, submit a further appeal in writing to the mayor. The city secretary shall confer with the non-probationary employee before rendering a decision. The non-probationary employee may introduce any evidence they may desire during this conference with the city secretary. Such decisions shall be reduced to writing and shall be delivered to the non-probationary employee within ten (10) working days of the date on which the appeal was received by the mayor. The decision of the mayor shall be final.

All adjustment of decisions processed under the appeal procedures shall be retroactive to the time the appeal was first submitted in writing by the non-probationary employee to their department head.

SECTION L: RETIREMENT FUND AND MEDICAL INSURANCE PROGRAM

All full-time non-probationary employees with more than ninety (90) days continuous employment shall become eligible for the city's group retirement/death program. Every

effort shall be made by management to maintain and improve this full-time personnel retirement program.

All full-time non-probationary employees with more than ninety (90) days continuous employment shall become eligible for the city's group medical insurance program. The city will pay for the employees premium, any dependents are optional and the employees responsibility. The city currently has coverage with Ben Keel through HUMANA Health Insurance, United States Life Insurance Company, and Pioneer (Retirement Plan 403B).

SECTION M: HEALTH AND SAFETY

The Administration desires to comply with all health and safety rules and regulations prescribed by law, to maintain adequate heating, ventilating and lighting conditions, as well as clean and adequate facilities. Each employee is requested to assist the management in the maintenance of this policy by notifying the mayor of any violations.

SECTION N: JURY DUTY

In the event that a full-time employee is required to be absent from work for jury service, the full-time employee shall be compensated for the time so lost, (the maximum eight (8) hours per day) at the regular rate of pay, and the employee must turn in his jury pay check endorsed to the city.

SECTION O: SALARY INCREASES

Employees entering the pay system will generally be eligible to receive review after the probationary period. Additionally, there are three(3) ways that you can earn salary increases.

1. One way to earn a salary increase is by promotion from your present job to one with greater responsibility and pay.
2. Additionally, the city council will annually survey changing economic conditions in the July regular session. As the cost of living changes, recommendations for general across the board salary adjustments are made by the city council. If economic conditions require across the board increases they will occur September 1st after the city council review in July.
3. Merit raises after annual hire date anniversary reviews. (Will be considered during July employee review)

SECTION P: AUTHORITY TO TRAVEL

At the discretion of the mayor, employees are authorized to travel on official business. Employees have the responsibility to travel only as is necessary to effectively perform their duties to the citizens of San Felipe. The authorized trips in the city budget are: city judge, city secretary, mayor and council maintain their certifications. Every effort is to be

made to keep expenses down on these necessary trips. Meal allowance is \$25.00 per day per person This must be documented on employee's travel sheets. approved by the mayor and supported by the appropriate vouchers.

SECTION Q: SCHOOLS

The city wishes to help its employees improve in their jobs skills and classification. With the approval of the mayor and city council, employees will be required to attend schools, seminars and discussions that will be beneficial to the city and it's citizens. The employee will be given time off with pay to attend such schools, if it is determined to be in the interest of the city. The city, in such cases, will pay tuition to the school, and reasonable expenses. If the school, seminar, or discussion is not considered to be in the best interest of the city, the employee will not receive pay nor will any tuition be paid. The employee, in such cases, will pay his/her own expenses.

SECTION R: PAY PERIODS

The city pay its employees bi-weekly. You will be held back one week's pay so that correct hours can be turned in to the city secretary. Pay checks are issued on the second Friday of the two week period. Signed time cards must be turned in to the city secretary to calculate your pay.

SECTION S: EMPLOYEE FUNCTIONS

Every year in December, at the city's expense, the city employees along with the city council members have a Christmas party. Also, the last day of work before Christmas Eve, the city employees gather at the city office to have their own party.

SECTION T: WEEKEND ON-CALL PAY AND CALL-OUT PAY

One utility employee each weekend is required to be "on call" for any problems that may arise due to electric, gas or water failure. Weekend "on -call" pay is total of four (4) guaranteed hours at time and a half, which includes well duty. The "on-call" employee is required to keep a separate "on-call" time card to record the call-out time worked on the weekend. The employee is paid time and a half for any call-out time he works, with a one hour minimum.

"Call-out Pay" - Any call out after regular hours will be paid at time an a half, with a one hour minimum.

"Holiday On Call" - any employee on call on a paid holiday is given another 8 hours at regular pay.

SECTION U: DRESS CODE

Office employees are required to wear skirts, dresses, or slacks. Shorts are not allowed. The maintenance men are supplied a uniform.

SECTION V: PERFORMANCE EVALUATIONS

Performance evaluations for all employees will be completed during the month of July to help councilmembers, supervisory personnel and employees measure how well work is being performed and to provide a tool for decisions regarding training, assignment, promotion, salary adjustment and retention of employees. All performance appraisals shall be completed on standardized forms attached. The mayor shall discuss the reports with the employee and shall counsel him/her regarding the job performance, and any improvements in such performance which appears desirable or necessary. All performance appraisals shall become a permanent part of the employee's personnel file maintained by the city secretary.

SECTION W: CONFIDENTIAL INFORMATION

Employees of the Town of San Felipe shall treat as confidential the official business of the Town of San Felipe. They shall not discuss or impart any information to anyone except those for whom it is intended, or as directed by the mayor and council, or under due process of law.

Employees shall not make known to any person the contents of any directive which they may receive, unless so required by the nature of the order.

SECTION X: CONFORMITY TO TOWN RULES AND REGULATIONS

It shall be the duty of every employee to thoroughly familiarize himself with the provisions of all Town of San Felipe Policies and Procedures in this Manual. He/she shall confirm to and abide by such rules and regulations, observe the laws and render his services to the Town of San Felipe and its citizens with enthusiasm, courage, discretion and loyalty.

The violation of any departmental policies is subject to disciplinary action and/or termination.

SECTION Y: EMPLOYEE SIGNATURE FORM FOR PERSONNEL FILE

ACKNOWLEDGMENT

As an employee of the Town of San Felipe I acknowledge receipt of the Town's Policy and Procedures as authorized by council on July 13, 1999.

I fully understand that I am bound to conduct myself at all times in compliance with each and every procedure detailed in this manual.

I fully understand that this manual affords me timely remedies and appeal procedures that are detailed for me.

_____ Employee

_____ Date

_____ Witness

CHAPTER 9
SUBDIVISIONS

[Reserved for Future Use]

CHAPTER 10

TRAFFIC CONTROL

Article 10.100:	Traffic Not to be Obstructed	10-3
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ARTICLE 10.100 TRAFFIC NOT TO BE OBSTRUCTED

No vehicle shall be operated or allowed to remain upon any street in such manner as to form an unreasonable obstruction to the traffic thereon. (Ordinance 1984-9 adopted 12/11/84, Article I, Section 1)

ARTICLE 10.200 UNNECESSARY NOISE

It shall be unlawful to operate a vehicle which makes unusually loud or unnecessary noise. (Ordinance 1984-9 adopted 12/11/84, Article I, Section 2)

ARTICLE 10.300 MUFFLER REQUIRED

No vehicle shall be operated upon any roadway unless the same is provided with a muffler which is in efficient and actual working condition, and the use of a cut-out is prohibited. (Ordinance 1984-9 adopted 12/11/84, Article I, Section 3)

ARTICLE 10.400 SPEED REGULATIONS*

(a) Any operator of a vehicle on a street or roadway within the city limits shall operate the same at a careful and prudent speed not greater than is reasonable and proper, having due regard to the traffic, surface and width of the roadway and of any other conditions then existing, and no operator shall drive any vehicle upon a roadway at such speeds as to endanger the life, limb or property of any person. Rates of speed in excess of 30 miles per hour shall be "prima facie" evidence of violation of this section. provided that on the following streets or roadways vehicles may be operated at a rate of speed not to exceed that specified below:

- (1) Sealy Road, West of FM 1458 to College Street, 40 miles per hour;
- (2) Peters-San Felipe Road, from Peach Street to the intersection of Remmert Road, 40 miles per hour

(Ordinance 1984-9 adopted 12/11/84, Article I, Section 4)

(b) It shall be unlawful for any person to drive or operate a motor vehicle upon a public highway or street within the city limits of the incorporated Town of San Felipe de Austin, Texas, at a speed in excess of 40 miles per hour; and any person convicted of violating this article by operating a motor vehicle upon a public highway or street within the city

* State Law reference—Authority to establish or alter prima facie speed limits. V.T.C.A., Transportation Code, Sec. 542.202(12).

limits of the incorporated Town of San Felipe de Austin, Texas, shall be assessed a fine in accordance with the general penalty provision found in Section 1.106 of this code. (Ordinance adopted 5/15/54)

(c) Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Section 169 of Article 6701d, Vernon's Texas Civil Statutes, the following prima facie limits hereafter indicated for vehicles are hereby determined and declared to be reasonable and safe, and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

- (1) On Park Road 38 from a point at its intersection with FM 1458 to a point 4,282 feet West (park entrance) a distance of approximately 0.811 of a mile. 40 miles per hour.

(Ordinance 1983-3)

(d) Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Section 169 of Article 6701d, Vernon's Texas Civil Statutes, the following prima facie limits hereafter indicated for vehicles are hereby determined and declared to be reasonable and safe, and such speed limits are hereby fixed at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

- (1). On FM 1458 from a point at the south city limit to a point 7,513 feet north, a distance of approximately 1.423 miles, 45 miles per hour;
- (2) On FM 1458 from a point 7,513 feet north of the south city limit to a point 3,833 feet north, a distance of approximately 0.726 of a mile, 40 miles per hour;
- (3) On FM 1458 from a point 11,346 feet north of the south city limit to a point 2,476 feet north, a distance of approximately 0.469 of a mile, 45 miles per hour;
- (4) On FM 1458 from a point at the Brazos River Bridge (M.P. 0.000) to a point 697 feet south, a distance of approximately 0.132 of a mile, 55 miles per hour;

(Ordinance 1986-1 adopted 4/8/86)

(e) Upon the basis of an engineering and traffic investigation heretofore made as authorized by the provisions of Section 169 of Article 6701d, Vernon's Texas Civil Statutes, the following prima facie limits hereafter indicated for vehicles are hereby determined and declared to be reasonable and safe, and such speed limits are hereby fixed

at the rate of speed indicated for vehicles traveling upon the named streets and highways, or parts thereof, described as follows:

- (1) On IH 10 Eastbound and Westbound Frontage Road from a point at the East city limit to a point at the West city limit, a distance of approximately 0.804 of a mile, 55 miles per hour.

(Ordinance 1988-2 adopted 5/10/88)

ARTICLE 10.500 USE OF RIGHTS OF WAY

- (a) No car bodies that are immobile are allowed to be parked on right of way of any street or highway in the Town of San Felipe.
- (b) Cars which are capable of mobility shall not be parked on right of way within 10 feet of pavement or road surface, nor shall they be allowed to park on right of way in excess of 12 hours at any one time.
- (c) No trees, shrubs or other obstructions are allowed to be planted or placed on right of way without prior agreement with the Town of San Felipe.
- (d) Any person who shall violate any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1977-1 adopted 4/12/77)

ARTICLE 10.600 PARKING RESTRICTIONS*

Sec. 10.601 FM 1458 and Park Road 38

- (a) No person shall stop, park, or leave standing any vehicle, whether attended or unattended on either side of FM 1458 and Park Road 38 in and through San Felipe where signs have been placed prohibiting or restricting such parking.
- (b) Whenever any police officer finds a vehicle standing upon that portion of the roadway in violation of the foregoing provision of the ordinance, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move same, to a position outside the restricted area.

* State Law reference—Authority to regulate parking, V.T.C.A.. Transportation Code. Sec. 542.202(2).

(c) Any person violating any provision of subsection (a) of this article shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1978-1 adopted 7/29/78)

Sec. 10.602 Certain Oversized Vehicles

(a) It shall be unlawful for any person owning or having control of any truck bus tractor trailer recreational vehicle or recreational equipment having a capacity in excess of one and one-half (1 1/2) tons or which is more than eighteen (18) feet in length or seven (7) feet in width or seven (7) feet in height to park the same upon any town street at a location that is within two hundred fifty (250) feet of any single-family residence in the town.

(b) The provisions of this section shall not prohibit the parking of any such truck, bus tractor trailer recreational vehicle or recreational equipment on any residential street for the purpose of the actual loading and unloading of goods, wares and merchandise when such vehicle is accompanied by a driver; provided further that "loading" and "unloading" as used in this section shall be limited to the actual time necessary to complete such operation.

(c) Any person violating this section shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1995-2 adopted 2/14/95)

ARTICLE 10.700 STOP SIGNS*

Sec. 10.701 Generally

(a) The Town Council hereby establishes the location of stop signs in the town limits of the Town of San Felipe Texas. The Town Council adopts by reference the definition for stop signs found in the Texas Uniform Act Regulating Traffic on Highways as amended also known as Tex. Rev. Civ. Stat. Ann. Art. 6701d.

(b) The existence of traffic signs or markers at any place within the town limits of the Town shall be prima facia evidence that such signs or markers were erected or placed by and at the direction of the Town Council in accordance with this article.

* State Law reference—Authority to place and maintain traffic control devices. V.T.C.A., Transportation Code, Sec. 542.202(1).

(c) Any person failing or refusing to comply with the traffic directions indicated on any sign or marker erected or placed in accordance with the provisions of this article when so placed and erected shall be guilty of a misdemeanor and shall be fined in accordance with the general penalty provision found in Section 1.106 of this code.

Sec. 10.702 Location of Stop Signs

The following streets and locations of stop signs are made a part of this article and are regulated by the same.

- (1) FM 1458 is a right-of-way street. Stop signs are erected at the corner of the streets intersecting with FM 1458 at the following locations The stop sign is facing the intersecting street at each point of intersection.

- Park Road 38
- Second Street
- Third Street
- Sixth Street (East and West Side)
- Campo Santo (East and West Side)
- Front Street (East and West Side)
- Houston Street (East and West Side)
- Sealy/San Felipe Road (East and West Side)
- Avenue A (East and West Side)
- Avenue B (East Side)
- Avenue C (East and West Side)
- Avenue D (East and West Side)
- Avenue E (East and West Side)
- Avenue F (East Side)
- Avenue G (West Side)
- Stockeld Road

- (2) Peach Street is a right-of-way street except at the intersections of Peach Street at Sealy/San Felipe Road and Peach Street at Park Road 38. At these intersections Peach Street has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Peach Street. The stop sign is facing the intersection street at each point of intersection.

- Campo Santo (East and West Side)
- Peters San Felipe Road
- Fourth Street

- (3) San Felipe Drive is a right-of-way street except at the intersection of San Felipe Drive at Sealy Road. At that intersection San Felipe Drive has a stop sign. Stop signs are also erected at the corner of the following streets

intersecting with San Felipe Drive. The stop sign is facing the intersection street at each point of intersection

Avenue A
Avenue B
Avenue C
Avenue D
Avenue E
Avenue G

- (4) Park Road 38 is a right-of-way street except at the intersection of Park Road 38 at FM 1458. At that intersection Park Road 38 has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Park Road 38. The stop sign is facing the intersection street at each point of intersection

Peach Street
Cottonwood Street
North College Street

- (5) Fourth Street is a right-of-way street except at the intersections of Fourth Street at Peach Street and Fourth Street at Antonio Martinez Street. At these intersections Fourth Street has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Fourth Street. The stop sign is facing the intersection street at each point of intersection.

Cottonwood Street

- (6) Sixth Street is a right-of-way street except at the intersections of Sixth Street at FM 1458 Sixth Street at Fannin Street and Sixth Street at Guadalupe. At these intersections Sixth Street has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Sixth Street. The stop sign is facing the intersection street at each point of intersection.

Antonio Martinez Street
Guadalupe Street (4-way stop)
Palacios Street (North and South Sides)
Second Avenue

- (7) Fannin Street is a right-of-way street. Stop signs are erected at the corner of the following streets intersecting with Fannin Street. The stop sign is facing the intersection street at each point of intersection.

Second Avenue
Sixth Street

- (8) Campo Santo Street is a right-of-way street except at the intersections of Campo Santo Street at Peach Street and Campo Santo Street at FM 1458. At these intersections Campo Santo Street has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Campo Santo Street. The stop sign is facing the intersection street at each point of intersection

Cottonwood Street
College Street
Guadalupe Street
Palacios Street
Eighth Street
Fifth Avenue

- (9) Houston Street is a right-of-way street except at the intersections of Houston Street at College Street and Houston Street at FM 1458. At these intersections Houston Street has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Houston Street. The stop sign is facing the intersection street at each point of intersection.

Alvin Street
Baron de Bastrop Street
Guadalupe Street
Nicholas Bravo Street

- (10) Sealy/San Felipe Street is a right-of-way street except at the intersection of Sealy/San Felipe Street at FM 1458. At that intersection Sealy/San Felipe Street has a stop sign. Stop signs are also erected at the corner of the following streets intersecting with Sealy/San Felipe Street. The stop sign is facing the intersection street at each point of intersection.

Peach Street
College Street
Alvin Street
Baron de Bastrop
Front Street
Guadalupe Street
Nicholas Bravo Street
Tenth Avenue
Eight Avenue

- (11) Manak Road is a right-of-way street except at the intersection of Manak Road at Interstate 10 Access Road. At that intersection Manak Road has a stop sign. Stop signs are also erected at the corner of the following streets intersecting

with Manak Road. The stop sign is facing the intersection street at each point of intersection.

Skrivanek Road

(Ordinance 1997-3 adopted 4/8/97)

ARTICLE 10.800 TRUCK ROUTES

Sec. 10.801 Purpose

The purpose of this article is to protect the town streets which were designed and built primarily for private passenger automobile traffic and to protect the streets from the damage and deteriorating effects of heavy vehicular traffic.

Sec. 10.802 Maximum Weight

The use of any town street by trucks having a combined body and weight load in excess of 7,500 pounds is prohibited.

Sec. 10.803 Routes Designated

(a) These heavy trucks may use the following streets in order to pass through the Town of San Felipe: Farm Road 1458 Sealy Road. Heavy vehicles are not allowed on any other street.

(b) Heavy vehicles may however pass through the Town of San Felipe to a residential street if the purpose is to make a pick up or delivery as required. Once pickup or delivery has been completed then the heavy vehicle must proceed through the truck route as designated by the Town.

Sec. 10.804 Penalty for Violations

A violation of this article shall constitute a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1995-4 adopted 2/14/95)

CHAPTER 11

UTILITIES & SOLID WASTE

Article 11.100:	Garbage Bag Use	11-3
Article 11.200:	Private Sewage Facilities	11-4

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ARTICLE 11.100 GARBAGE BAG USE

(a) The town council hereby establishes the use of the “Town of San Felipe Residential Garbage Collection” garbage bag. These bags are available for purchase at town hall. The council has determined that any resident wishing the town to collect their garbage must use the town designated garbage bag. Failure to use the town designated garbage bag will result in the town’s refusal to pick up the resident’s garbage. Individuals must meet the following regulations for town residential garbage pick up.

- (1) All garbage must be in the official “Town of San Felipe” garbage bags. Only garbage in official bags will be collected.
- (2) When placed for collection, they shall be securely tied with wire, twine, tape, or ends fastened into a knot.
- (3) Weight limit of each bag must not exceed 20 pounds.
- (4) All garbage must be in front of the resident’s house by 8:00 a.m. each Wednesday.
- (5) No grass cuttings, tree limbs, dead animals, tires, oil, or batteries allowed.
- (6) Broken glass must be placed in a brown bag before putting it in the plastic bags.
- (7) Garbage scattered prior to pick up will not be picked up by Town Employees.
- (8) All cardboard boxes must be flattened and tied securely together.
- (9) Individuals are prohibited from dumping garbage not in Town bags in the four large dumpsters by the maintenance barn.

(b) Failure to use the Town Bags when depositing garbage for Town pick up, and failure to use Town Bags when dumping garbage in the four large dumpsters by the maintenance barn, shall constitute a violation of this article and will be considered a misdemeanor, punishable by a fine in an amount not to exceed \$2,000.00

(c) Any citizen’s use of an unauthorized garbage bag that results in garbage being scattered by animals shall be responsible for the collection and clean up of said debris. The debris must be cleaned up and removed no later than 24 hours after notification by the town crew. Failure to remove and clean up said debris within this time period shall constitute a violation of this article and shall constitute a misdemeanor punishable by a fine not to exceed \$2,000.00.

(d) Any violation of this article not specifically addressed above, shall constitute a misdemeanor punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(Ordinance 1995-5 adopted 2/14/95)

ARTICLE 11.200 PRIVATE SEWAGE FACILITIES

Sec. 11.201 Authority

These rules are adopted by the town council of the Town of San Felipe, located in Austin County, Texas, and hereinafter referred to as the Town of San Felipe acting in its capacity as the governing body of the Town of San Felipe. Authority of the Town of San Felipe to adopt these rules is Article 1015, Vernon's Texas Civil Statutes Annotated.

Sec. 11.202 Purpose

The purpose of these rules is to abate or prevent injury to the public health of Town of San Felipe, Austin County, Texas.

Sec. 11.203 Construction of Rules

These rules are to be construed liberally to accomplish their purpose. In construing the "Standards" described in Section 11.207 below, precatory words contained therein shall be deemed mandatory. In the event of any conflict between these rules and an order, resolution or other rule adopted by the Texas Water Commission, then and in that event, the order, resolution or other rule adopted by the Texas Water Commission shall take precedence. In the event of any conflict between these rules and the "Standards", then and in that event, these rules shall take precedence.

Sec. 11.204 Definitions

As used in these rules, the following words and phrases have the following meanings, unless context clearly demonstrates otherwise:

Town Council. Means the Town Council of the Town of San Felipe.

Clerk. Means the City Clerk of the Town of San Felipe.

City Sanitarian. Means the City Sanitarian of the Town of San Felipe.

Institution. Means any establishment other than a single family residence.

Mobile Home Park. Means any facility or area developed for the lease or rental of two or more mobile home spaces.

Organized Disposal System. Means any publicly or privately owned system for the collection, treatment and disposal of sewage, operated in accordance with the terms and conditions of a valid waste discharge permit issued by the Texas Water Commission.

Person. Includes an individual, corporation, organization, estate, trust, partnership, association or other entity.

Private Sewage Facility. Means all systems and methods used for the disposal of sewage, other than organized disposal systems operated under a valid permit issued by the Texas Water Commission, including, but not limited to, septic tanks, absorption beds, pits, privies, cesspools, sewage holding tanks, injection wells used to dispose of sewage.

Sewage. Means waterborne human waste and waste from domestic activities, such as, washing, bathing, and food preparation.

Single Family Residence. Means a single family dwelling or mobile home.

Standards. Means the pamphlet "Construction Standards for Private Sewage Facilities" described in Section 11.207.

State. Means the State of Texas.

Substantial Modification. Means the alteration of an existing private sewage facility so that the total volume of the facility is increased by 25% or more.

Subdivision. Means

- (1) a subdivision which has been platted and recorded with the County Clerk of Austin County, Texas, or which is required by statute to be so platted and recorded; or
- (2) any four (4) or more adjoining lots or tracts, each of which is less than two (2) acres in size.

Sec. 11.205 Administration by City Sanitarian

- (a) The city sanitarian shall administer these rules.
- (b) The city sanitarian shall:

- (1) Make appropriate recommendations to proper authorities of the Town of San Felipe when instances of non-compliance with these rules has been determined.
- (2) Make inspections of existing private sewage facilities when requested and inspect all new facilities. All components of the system shall not be covered until an inspection has been made. The absorption trenches or evapotranspiration beds may be partially backfilled but all ends, and other critical areas shall not be backfilled until the city sanitarian has determined the construction complies with these rules, standards or other special conditions specified on the license.
- (3) Collect all fees set by the town council to recover costs incurred in meeting the requirements of these rules.
- (4) Make semi-annual reports to the town council on all legal actions taken concerning these rules.
- (5) Perform all other duties necessary to meet the requirements of these rules.

Sec. 11.206 Area Covered by Rules

These rules shall apply only to the incorporated area of the Town of San Felipe, and to its extra-territorial jurisdiction.

Sec. 11.207 Incorporated by Reference

(a) Pursuant to Texas Revised Civil Statutes Annotated article 4477-1, section 23(b), the Texas Board of Health adopted Texas Department of Health Rules 301.79.03.001-.003, which are entitled "Construction Standards for Private Sewage Facilities" and which were published in Texas Register, Volume 2, No. 99, December 23, 1977. A copy of "Construction Standards for Private Sewage Facilities" (sometimes referred to within these county Rules as the "Standards") is maintained on file in the office of the town secretary. The "Standards" and all future amendments to the "Standards" are made a part of these rules for all intents and purposes as though set forth herein word for word.

(b) The city sanitarian shall interpret and resolve any question regarding any interpretation of the "Standards".

(c) All precatory words contained within these rules shall be deemed mandatory.

Sec. 11.208 Lawful Discharge of Sewage

After the effective date of these rules, only the following types of sewage discharges shall be lawful:

- (1) Sewage discharged into an organized disposal system.
- (2) Sewage discharged into a private sewage facility licensed and maintained in accordance with these rules.
- (3) Sewage discharged into a private sewage facility existing and in use on the effective date of these rules, which has not been substantially modified since the effective date of these rules, and which is used and operated in such a manner as not to constitute a nuisance as defined in Section 11.217 of these rules, and which has not had a substantial increase in the sewage flow rate since the effective date of these rules. For the purpose of this provision, any private sewage facility which has been actually used at any time during the twelve (12) month period immediately preceding the effective date of these rules, shall be conclusively presumed to have been in use on the effective date of these rules.

Sec. 11.209 Existing Residential Lot Sizing

On existing lots with less than 15,000 square feet a private sewage facility may be licensed provided the soil conditions will support an absorption or evapotranspiration system, or other system allowed in the "Standard", after it has been demonstrated by a thorough subsurface soils investigation that any proposed and/or existing water supply systems within 100 feet of the effluent treatment area will not be contaminated.

Sec. 11.210 Private Sewage Facility Installation, Modification and Maintenance

- (a) No person may install or substantially modify a private sewage facility unless a license therefor has first been obtained from the city sanitarian.
- (b) Injection wells, pit privies and cesspools are specifically prohibited from being installed and licensed.
- (c) The design and maintenance of a private sewage facility shall, as a minimum, meet the requirements set forth in the "Standards".
- (d) No person may install a private sewage facility on a lot or tract smaller than that required to meet the requirements set forth in the "Standards", except as noted in Section 11.209 above.
- (e) No person may install a private sewage facility within 300 feet (measured on the closest practicable access route) of a publicly owned organized disposal system unless service by said organized disposal system has been formally requested and has been denied by the governing body thereof. The failure of such governing body to act upon

such request, by granting or denying same within 30 days of receipt thereof, shall be deemed to be a denial of the request.

(f) Percolation tests are provided by the “Standards” shall be performed in accordance with the “Standards” by a registered professional sanitarian or registered professional engineer.

(g) The installation and construction of private sewage facilities shall be made in accordance with the approved design and requirement of the license issued therefor.

(h) The effluent from an individual home aerobic wastewater disposal unit must be discharged into a properly designed and constructed soil absorption or evapotranspiration system. No discharges to the ground surface or into the waters in the State are authorized.

Sec. 11.211 Additional Design Requirements—Institutions

(a) For establishments other than those set forth in Table IV of the “Standards” (Individual Usage Rate), with a sewage flow rate less than 500 gallons per day, the city sanitarian will calculate the daily sewage flow per person upon written request.

(b) For Institutions which have a sewage flow rate of more than 500 gallons per day (as herein calculated), a registered professional engineer or registered professional sanitarian shall design all private sewage facilities serving the institution. Said designs shall be made in accordance with Section 11.210 of these rules and the “Standards”, except that single compartment septic tanks shall not be utilized, but instead, septic tanks with two or more compartments or two or more septic tanks connected in series shall be utilized.

Sec. 11.212 Substantial Increase in Flow

No person shall cause or allow a substantial increase in the sewage flow rate of a private sewage facility, without first obtaining from the city sanitarian a license or amendment of an existing license. The application for such license shall reflect the increased sewage flow rate. The sewage flow rate shall be considered to be substantially increased when the flow rate, calculated in the manner provided herein, is increased by more than 25%.

Sec. 11.213 Issuance of Licenses

(a) Only the person owning, or having the right to possession of, the parcel of land upon which a proposed private sewage facility is to be located, may apply for a private sewage facility license. To make application for a private sewage facility license, the applicant shall submit to the city sanitarian the following:

- (1) The completed application form.

- (2) The required fee.
- (3) The results of the percolation tests, if already performed by a registered professional engineer or professional sanitarian.
- (4) A drawing or drawings reflecting that the proposed private sewage facility will comply with these rules and demonstrating that the lot or tract is large enough for the private sewage facility to be constructed thereon.
- (5) Any additional information that the city sanitarian may require. The completed application and all of its appurtenances shall not contain any false information nor conceal any material facts.

(b) Based upon the information contained in the completed application, and other information available to the city sanitarian, the city sanitarian shall:

- (1) Issue a license to the applicant, such license to be effective for an indefinite period of time, or
- (2) Within 15 days after receipt of the application and appurtenances, give written notice to the applicant that the application is denied, stating the reason(s) which prevent licensing. Said notice shall be considered given by depositing the same in the U.S. Mail, postage prepaid, addressed in accordance with the application.

(c) The applicant may appeal a denial in accordance with the procedure set forth in Section 11.216 of these rules.

Sec. 11.214 Private Sewage Facilities in Subdivisions

(a) Any person desiring to create a subdivision using private sewage facilities must obtain approval from the city sanitarian. The following plat information is required for review in order to determine that a subdivision, when developed, using septic tank systems for sewage disposal will not become a public health hazard or pollute area water supplies, streams and lakes as set forth herein.

- (1) An accurate plat showing the proposed number and lot sizes. If not for single family dwellings, the planned use and number of living units.
- (2) The geographic location of the proposed subdivision and its proximity to watersheds, streams and lakes.
- (3) Availability of utilities and the distance to and location of nearest city sewer and area water wells.

- (4) Topographic contours on two (2) foot intervals for the proposed subdivision and seventy-five (75) feet of the adjacent area.
- (5) Whether or not the water supply and distribution system has been approved by the State Health Department.
- (6) The developer's engineer shall be required to certify that an acceptable septic tank system can be constructed on each lot.
- (7) Identify the areas on the plat that are subject to flooding based on 100 year flood plain and areas where the water table will be within 4 feet of the bottom of the proposed absorption systems.

(b) Lot sizes - The use of septic tanks in a subdivision has a bearing on the ultimate lot size. In determining the minimum lot size for platting purposes, size will be determined by the suitability of the soil to function without creating a nuisance or health hazard. The lot must contain an adequate area to provide for expansion to twice the original size of the absorption field.

(c) Septic Tank Design - The city sanitarian shall require the developer to perform soil profiles and percolation tests in order to determine that each lot in the proposed subdivision meets the requirements of this order. The city sanitarian will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the developer will be notified of any areas not suitable for the use of private sewage facilities. Such percolation test data, soil profile, and engineering design for each individual lot private sewage disposal facility shall be filed as a deed record for the lot. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

Sec. 11.215 Exceptions

(a) A person desiring an exception to any requirement of these rules shall file a written request with the city sanitarian stating:

- (1) The nature of the exception requested; and
- (2) The reason the exception should be granted.

(b) Within thirty (30) days after receipt of said request, the city sanitarian shall review the request and reply to the applicant in writing either granting or denying the request.

(c) If the request is denied, the city sanitarian shall include in its reply the reasons for denial.

(d) The applicant may appeal a denial in accordance with the procedure set forth in Section 11.216 of these rules.

Sec. 11.216 Appeals

(a) Any person aggrieved by an action or decision of the city sanitarian hereunder may, within thirty days of the date on the document giving notice of the action or decision, appeal to the city hearing examiner appointed by the town council.

(b) The appeal to the hearing examiner shall be initiated by filing a written objection with the hearing examiner. The written objections shall state what the action or decision of the city sanitarian should have been and why. A copy of the document containing the notice of the action or decision complained of shall be attached to said written objection. Upon receipt of said written objection and attachment the hearing examiner shall set the same down for a hearing to be held within the next fifteen (15) days and advise all parties of the date, time and place of hearing.

(c) At hearings before the hearing examiner all witnesses will be sworn. The hearing examiner will hear the testimony of the city sanitarian and/or each person as will be called by the city sanitarian, and additionally, the hearing examiner will hear the testimony of the complainant along with any witnesses the complainant may call. Additionally, the hearing examiner will review all documents and exhibits submitted to him by the parties. The hearing examiner will not be bound by formal rules of evidence and will control the evidence, reserving to himself the power to exclude testimony or exhibits he does not consider relevant.

(d) The hearing examiner will maintain an accurate record of the evidence adduced at the hearing.

(e) Within forty-eight (48) hours of the close of the hearing the hearing examiner will notify the city sanitarian and the complainant of his decision. Within three (3) days of the close of the hearing the hearing examiner will reduce to writing his report, which will consist of a finding of facts and his decision. The hearing examiner will file the original of his report with the city clerk, will keep one copy for himself, will send one copy to the complainant and will send one copy to the city sanitarian.

(f) If the city sanitarian or the complainant is dissatisfied with the hearing examiner's decision, he may, within five (5) days from the date the hearing examiner filed his report, file a written objection with the clerk. When such an objection is filed, the clerk will notify the mayor of the Town of San Felipe, Austin County, Texas who will place the matter on the agenda of the town council for review at the next meeting of the town council which is at least five (5) days after the date of the filing of the objection. If the objection is filed by the city sanitarian, notice that the matter is on the agenda will be sent to the complainant by mail. When the matter comes before the town council, the town council will review the matter, considering such information as is in the hearing

examiner's file and report along with such other evidence as the town council may deem relevant and as may be offered by the city sanitarian or the complainant. The town council will either affirm, reverse, or modify the decision of the hearing examiner.

(g) These provisions for appeal are not exclusive, but are cumulative of any other remedies at law or in equity.

Sec. 11.217 Nuisances

No person shall maintain a private sewage facility in such a manner as to be, or as may tend to be, injurious to or to adversely affect human health or welfare, animal life, vegetation or property, or as to interfere with the normal use and enjoyment of animal life, vegetation or property.

Sec. 11.218 Fees

To defray the cost of administering these rules, the city sanitarian will require fees to be paid in accordance with the fee schedule found in the appendix of this code which will be paid with the filing of application for license and/or with a written request for inspection.

Sec. 11.219 Enforcement

(a) A person who violates any one of these rules, is guilty of a misdemeanor and on conviction is punishable by a fine in accordance with the general penalty provision found in Section 1.106 of this code.

(b) Jurisdiction for prosecution of a suit under this provision is in the municipal court of the Town of San Felipe.

(Ordinance 1983-2 adopted 8/9/83)

CHAPTER 12
PLANNING & ZONING

[Reserved for future use]

APPENDIX A

FEE SCHEDULE

Article 1.000:	Animal Control Related Fees	A-3
Article 2.000:	Building Permit Fees	A-3
Article 3.000:	Business Related Fees	A-4
Article 4.000:	Private Sewage Facility Fees	A-4

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ARTICLE 1.000 ANIMAL CONTROL RELATED

Sec. 1.100 Adoption Fee

The adoption fee shall be \$35.00 per animal plus the cost of the rabies vaccination.

Code reference—Chapter 2, Article 2.100, Section 2.117(e)

Sec. 1.200 Impoundment and Board Fees

(g) The following impoundment and boarding fees must be paid for each animal impounded:

1ST IMPOUNDMENT - \$ 25.00 Plus \$7.00 Per Day for Boarding
2ND IMPOUNDMENT - \$ 50.00 Plus \$7.00 Per Day for Boarding
3RD IMPOUNDMENT - \$100.00 Plus \$7.00 Per Day for Boarding
4TH IMPOUNDMENT - \$200.00 Plus \$7.00 Per Day for Boarding

Code reference—Chapter 2, Article 2.100, Section 2.117(g)

Sec. 1.300 Dangerous Dog Fees

(a) The annual registration fee for dangerous dogs shall be \$50.00.

(b) If an owner of the dangerous dog sells or moves the dog to a new address, the owner, not later than the 14th day after the date of the sale or move, shall notify the animal control officer for the area in which the new address is located. On presentation by the current owner of the dog's prior registration tag or coll. or payment of a \$25.00, and proof of insurance or financial responsibility the animal control authority shall issue a new registration collar to be placed on the dangerous dog and two new signs to be placed on the enclosure where the dangerous dog is kept.

Code reference—Chapter 2, Article 2.300, Section 2.303

ARTICLE 2.000 BUILDING PERMIT FEES

(a) There will be a \$10.00 grandfathered permit for all mobile homes in place (5/4/99) and the resident(s) will be given within 30 days to comply. If the citizens do not obtain a grandfathered permit, they will be subject to new fees and requirements.

(b) New construction permit fees will be as follows: \$75.00 residential homes and \$100.00 for commercial construction.

Code reference—Chapter 3, Article 3.200

ARTICLE 3.000 BUSINESS RELATED FEES

Sec. 3.100 Peddler's Permit Fees

Each application shall be accompanied by a fee in the amount of fifty dollars (\$50.00) and no permit shall be issued until such fee has been paid

Code reference—Chapter 4, Article 4.200, Section 4.202

Sec. 3.200 Sexually Oriented Business Fees

The annual fee for a sexually-oriented business license is one thousand dollars (\$1,000.00).

Code reference—Chapter 4, Article 4.400, Section 4.406

ARTICLE 4.000 PRIVATE SEWAGE FACILITY FEES

(a) License Fees:

- (1) \$40.00 for any commercial institution or mobile home park or substantial modification thereof.
- (2) \$25.00 for any private sewage facility, or substantial modification thereof.

(b) Inspections: \$20.00 for each visit to the job site.

Code reference—Chapter 11, Article 11.200, Section 11.218

APPENDIX B

ORDINANCE DISPOSITION TABLE

This table shows the location or gives the disposition of the ordinances within this revised code. The abbreviation "NIC" means the ordinance is not included in this code, though not necessarily repealed.

ORD. NO.	DATE	DESCRIPTION	DISPOSITION
		Municipal Maintenance Ordinance	NIC
	3/29/38	Stephen F. Austin Memorial	NIC
	11/25/39	Granting franchise to Houston Lighting & Power	NIC
	5/15/54	Speed ordinance	Chapter 10, Article 10.400
	11/6/54	Prohibiting sale of alcoholic beverages within city limit	Chapter 4, Article 4.100
	5/11/57	Prohibiting cattle, etc. from being at large in city limits	Superseded by ordinance adopted 6/1/65
	3/1/58	Prohibiting dumping of garbage, etc., on public streets	Chapter 6, Article 6.100
	3/29/58	Prohibiting sheep or goats from being at large	Superseded by ordinance adopted 6/1/65
	10/10/59	Granting franchise to Houston Lighting & Power	NIC
	10/10/59	Granting franchise to Houston Lighting & Power	NIC
	2/9/60	Agreement with Southwestern Bell Approving license agreement for cattle grazing	NIC NIC
	6/1/65	Prohibiting animals running at large	Chapter 2.200
	11/10/70	Placing issue of adoption of local sales tax	NIC
	11/18/72	Establishing speed limits during construction	NIC
	5/20/76	Establishing building, housing and electrical codes	Superseded by Ordinance 1976-2
	12/13/77	Speed limits during construction	NIC
	3/11/80	Vacating portion of Calle Alta Street	NIC
1976-1	2/13/76	Building permit requirements	Superseded by Ordinance 1976-2

ORD. NO.	DATE	DESCRIPTION	DISPOSITION
1976-2	5/20/76	Establishing building, housing and electrical codes	Chapter 3, Article 3.100
1977-1	4/12/77	Prohibiting use of right of way for parking which creates obstruction	Chapter 10, Article 10.500
1978-1	7/29/78	Restricting parking on certain streets	Chapter 10, Article 10.600, Section 10.601
1979-1	3/1/79	Retention of sales tax	Chapter 1, Article 1.400
1982-1	5/13/82	Livestock grazing contract	NIC
1983-1	3/8/83	Restricting accessibility to lower pasture	Superseded by Ordinance 1986-5
1983-2	8/9/83	Adopting rules for private sewage	Chapter 11, Article 11.200
1983-3		Speed limits	Chapter 10, Article 10.400
1984-1	7/12/84	Setting dates for public hearings	NIC
1984-2	5/4/84	Annexing territory	NIC
1984-4	7/10/84	Budget appropriations	NIC
1984-3	7/10/84	Appointing municipal court judge	Chapter 8, Article 8.200, Section 8.201
1984-5	9/11/84	Private sewage facility regulations	Chapter 11, Article 11.200
1984-6	11/13/84	Adopting Title 28	Chapter 1, Article 1.200
1984-7	11/13/84	Authorizing acreage sales	NIC
1984-8		Notification of town council of damage to property	Chapter 1, Article 1.300
1984-9	12/11/84	Regulating traffic upon public streets	Chapter 10, Article 10.100, 10.200, 10.300, 10.400
1984-10	12/11/84	Setting budget	NIC
1985-1	5/14/85	Floodplain regulations	Superseded by Ordinance 1988-1
1985-3	6/27/85	Town support appropriations	NIC
1985-4	10/8/85	Removal of junked vehicles	Chapter 7, Article 7.100
1986-1	4/8/86	Altering speed limits	Chapter 10, Article 10.400
1986-2	6/30/86	Creating police department	Chapter 8, Article 8.100
1986-3	6/30/86	Town support appropriations	NIC
1986-4		Granting license to livestock owners	NIC
1986-5	8/12/86	Restricting accessibility to lower pasture	Superseded by Ordinance 1990-6
1987-1	6/29/87	Town support appropriations	NIC
1987-2	7/14/87	Creating office of fire marshal	Chapter 5, Article 5.100
1988-1		Flood damage prevention	Chapter 3, Article 3.300
1988-2	5/10/88	Speed zone	Chapter 10, Article 10.400
1988-3	9/13/88	Town support appropriations	NIC
1989-1	9/26/89	Town support appropriations	NIC
1989-2	11/14/89	Prohibiting smoking in public places	Chapter 7, Article 7.200
1990-1		Municipal maintenance	NIC
1990-2	2/5/90	General election procedure	NIC

ORD. NO.	DATE	DESCRIPTION	DISPOSITION
1990-3	2/26/90	Extending city limit	NIC
1990-4	2/26/90	Adopting policies	Superseded by Ordinance 1999-4
1990-5	3/13/90	Adopting personnel policies	Superseded by Ordinance 1999-4
1990-6	3/13/90	Restricting accessibility to lower pasture	Superseded by Ordinance 1990-13
1990-7	4/3/90	Authorizing municipal court to collect special expense fees	Chapter 8, Article 8.200, Section 8.202
1990-8	4/30/90	Amending town support appropriations	NIC
1990-9		Extending city limit	NIC
1990-10	9/18/90	Town support appropriations	NIC
1990-11	9/18/90	Special election to be held	NIC
1990-12	9/18/90	Adopting personnel policies	Superseded by Ordinance 1999-4
1990-13	9/18/90	Restricting accessibility to lower pasture	Superseded by Ordinance 1993-10
1991-1	1/22/91	Canvassing election returns	NIC
1991-2	2/12/91	General election procedures	NIC
1991-3	5/7/91	Canvassing election returns	NIC
1991-4	5/21/91	Providing for rabies vaccination for dogs	Superseded by Ordinance 1993-2
1991-5	8/13/91	Adopting personnel policies	Superseded by Ordinance 1999-4
1991-6	9/10/91	Town support appropriations	NIC
1992-1	2/11/92	Prohibiting consumption of alcoholic beverages in town buildings or parks	Chapter 7, Article 7.300
1992-3	5/5/92	Canvassing election returns	NIC
1992-2	2/11/92	General election procedures	NIC
1992-4	6/23/92	Vacating/ closing a portion of Third Street	NIC
1992-5	9/8/92	Town support appropriations	NIC
1992-6	9/8/92	Vacating/ closing portion of Seventh Street	NIC
1992-8		Vacating portion of Antonio Sancedo Street	NIC
1992-9	11/24/92	Vacating portion of Houston Street	NIC
1992-10	12/15/92	Agreement with Southwestern Bell	NIC
1993-1	2/9/93	Establishing general election procedure	NIC
1993-2	3/9/93	Providing for health, safety, and welfare of citizens	Superseded by Ordinance 1993-3
1993-3	3/30/93	Animal control regulations	Chapter 2, Article 2.100

ORD. NO.	DATE	DESCRIPTION	DISPOSITION
1993-4	4/29/93	Amending appropriations	NIC
1993-5	5/4/93	Canvassing election returns	NIC
1993-6	7/13/93	Amending appropriations	NIC
1993-7	9/21/93	Amending appropriations	NIC
1993-8	9/27/93	Town support appropriations	NIC
1993-9	10/12/93	Restricting parking on FM 1458	Expired
1993-10	1/11/94	Restricting accessibility to lower pasture	Superseded by Ordinance 1995-9
1994-1	2/8/94	General election procedures	NIC
1994-2	3/8/94	Adopting personnel policies	Superseded by Ordinance 1999-4
1994-3	5/10/94	Canvassing election results	NIC
1994-4	8/30/94	Amending appropriations	NIC
1994-5	9/13/94	Designating records management officer	Chapter 1, Article 1.500
1994-6	9/19/94	Town support appropriations	NIC
1994-7	10/11/94	Adopting personnel policies	Superseded by Ordinance 1999-4
1995-1	2/14/95	General election procedures	NIC
1995-2	2/14/95	Prohibiting parking of oversized vehicles on town streets	Chapter 10, Article 10.600, Section 10.602
1995-3	2/14/95	Establishing stop sign locations	
1995-4	2/14/95	Establishing route for heavy vehicles	Chapter 10, Article 10.800
1995-5	2/14/95	Requiring garbage bags for residential garbage pickup	Chapter 11, Article 11.100
1995-6	5/9/95	Canvassing election returns	NIC
1995-7	5/9/95	Establishing comprehensive emergency management program	Chapter 1, Article 1.600
1995-8	7/11/95	Amending Budget	NIC
1995-9	8/8/95	Adopting license agreement for use of city's large pasture	Chapter 1, Article 1.800
1995-10	9/12/95	Town support appropriations	NIC
1995-11	10/10/95	Amending personnel policies	Superseded by Ordinance 199-4
1996-1	1/9/96	Adopting new language in town's deeds	NIC
1996-2	2/13/96	General election procedure	NIC
1996-3	2/13/96	Amending ordinance regarding deed restrictions	NIC
1996-4	5/10/96	Canvassing election returns	NIC
1996-5	9/23/96	Town support appropriations	NIC
1996-6	9/23/96	Town support appropriations	NIC
1997-1	2/11/97	General election procedure	NIC

ORD. NO.	DATE	DESCRIPTION	DISPOSITION
1997-2	4/8/97	Restricting accessibility to lower pasture	Chapter 1, Article 1.700
1997-3	4/8/97	Changing certain stop sign locations	Chapter 10, Article 10.700
1997-4	5/6/97	Canvassing election results	NIC
1997-5	7/8/97	Amending appropriations	NIC
1997-6	9/23/97	Town support appropriations	NIC
1997-7	10/14/97	Agreement between state and city for maintenance of certain state highways	NIC
1998-1	2/10/98	General election procedure	NIC
1998-2	4/14/98	Establishing service of warrants	Chapter 8, Article 8.300
1998-3	5/5/98	Canvassing election results	NIC
1998-4	9/29/98	Town support appropriations	NIC
1999-1	2/9/99	General election procedure	NIC
1999-2	5/4/99	Canvassing election returns	NIC
1999-3	5/4/99	Building permit requirements	Chapter 3, Article 3.200
1999-4	8/10/99	Adoption of personnel policy manual	Chapter 8, Article 8.400
1999-5	8/10/99	Municipal court technology fund	Chapter 8, Article 8.600
1999-6	8/10/99	Drug-free workplace policy	Chapter 8, Article 8.500

ORD. NO.	DATE	DESCRIPTION	DISPOSITION
1975-1	10/1/75	Restoring accessibility to lower part of	Chapter 1 Article
1975-2	10/1/75	Changing certain sign locations	Chapter 10 Article
1975-3	10/1/75	Converting election results	NIC
1975-4	10/1/75	Amending appropriations	NIC
1975-5	10/1/75	Lower support appropriations	NIC
1975-6	10/1/75	Agreement between state and city for maintenance of certain state highways	NIC
1975-7	10/1/75	General election procedure	Chapter 1 Article
1975-8	10/1/75	Establishing service of warrants	NIC
1975-9	10/1/75	Converting election results	NIC
1975-10	10/1/75	Lower support appropriations	NIC
1975-11	10/1/75	General election procedure	NIC
1975-12	10/1/75	Converting election results	NIC
1975-13	10/1/75	Uniform ballot requirements	Chapter 2 Article
1975-14	10/1/75	Adoption of personnel policy manual	Chapter 2 Article
1975-15	10/1/75	Maintaining technology fund	Chapter 2 Article
1975-16	10/1/75	Pro-fee award policy	Chapter 2 Article